

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION NO.31555 OF 2012

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

The Commissioner, Endowments Department, State of Telangana, is the petitioner. He is aggrieved by the order dated 19.03.2012 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter*, 'the Tribunal'), in O.A.No.3264 of 2010. The said O.A. was filed by the respondent herein assailing the order dated 07.05.2010 passed by the Commissioner imposing upon him the punishment of dismissal from service apart from effecting recoveries. By the order under challenge, the Tribunal held that the issue was squarely covered against the authorities by the Full Bench judgment dated 19.03.2008 of this Court in W.A.No.1789 of 2004 and batch and accordingly set aside the punishment order dated 07.05.2010.

By order dated 09.10.2012, this Court granted interim suspension of the order under challenge. W.V.M.P.No.750 of 2015 was filed by the respondent to vacate the said order.

The only ground raised by the Commissioner in the affidavit filed in support of the writ petition is that the punishment order was passed by him in exercise of power under Rule 6 of the A.P. Executive Officers' Disciplinary (Control & Appeal) Rules, 1977. He would further point out that Schedule-II to the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 (*for brevity*, 'the Rules of 1991') includes these service rules at Serial No.50 and therefore, the enquiry officer was directed to follow the procedure laid down in the Rules of 1991.

However, we find that this aspect of the matter was also considered by the Full Bench. The common order dated 19.03.2008 passed by the Full

Bench demonstrates that this issue was taken note of in internal page 35 thereof, wherein it was observed as under:

‘By reason of Rule 7 read with Schedule II of CCA Rules, endowment subordinate service is treated as subordinate service for the purpose of CCA Rules. If such inclusion in subordinate service makes CCA Rules applicable, things would have been different but that is not the case. As mentioned supra, EOs Disciplinary Rules made under 1966 Act govern disciplinary proceedings against EOs. Therefore, in view of Rule 3(1)(c) of CCA Rules, EOs for whom special rules are made are not governed by CCA Rules nor Rule 8 thereof confers power on the Commissioner to suspend EO.

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Andhra Pradesh Civil Services (Classification, Conduct and Appeal) Rules, 1991 have no application to EOs appointed under Section 29(2) of the Act. As a corollary, these Rules are not applicable to office holders and servants of temple who are authorised to discharge functions of Eos.’

It is not open to the authorities to seek to reopen the issues already settled by the Full Bench in the aforestated adjudication.

The writ petition is therefore devoid of merit and is accordingly dismissed. Interim order dated 09.10.2012 shall stand vacated. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

12th SEPTEMBER, 2018

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