

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.40085 of 2018

ORDER :

This Writ Petition is filed seeking to declare as null and void the proceedings in Memo 3093/VC/1/2016-1 dt. 17.03.2017 issued by the 1st respondent entrusting the case against the petitioner to the Tribunal for Disciplinary Proceedings for regular enquiry into certain allegations allegedly made against the petitioner, invoking Rule 3(1) of Andhra Pradesh Civil Services (Tribunal for Disciplinary Proceedings) Rules, 1989, read with Section 4 of Andhra Pradesh Civil Services (Tribunal for Disciplinary Proceedings) Act 1960.

2. In the counter affidavit filed by the 2nd respondent, it is stated that the Tribunal for Disciplinary Proceedings had no jurisdiction to conduct any enquiry into the matter.

3. As per Rule (2) of Andhra Pradesh Civil Services (Tribunal for Disciplinary Proceedings) Act, 1960, Government servant is defined as a person appointed to public services or to a post in connection with the affairs of the State of Andhra Pradesh; and under Section 4 the State Government is empowered to refer to the Tribunal for Disciplinary Proceedings for enquiry and report only cases relating to allegation of misconduct on part of the Government servant.

4. There is no dispute that the petitioner is not an employee of the State Government. Therefore, there could not have been any reference of case of petitioner under the impugned Memo dt. 17.03.2017 issued by

the 1st respondent, to the Tribunal for Disciplinary Proceedings for regular enquiry into allegations if any, made against the petitioner.

5. It is also not in dispute that the petitioner has been totally exonerated in the preliminary enquiry report dated 21.08.2014, by the Chairman of the Preliminary Enquiry Committee. Therefore, there is also no *prima facie* material on the basis of which, the 1st respondent could have referred the allegations levelled against the petitioner to the Tribunal for Disciplinary proceedings on 17.03.2017, i.e., 2 ½ years later. Therefore, the impugned order is also vitiated on the ground that the 1st respondent has not applied his mind.

6. In the result, this Writ Petition is allowed, setting aside Proceedings in Memo No. 3093/VC/1/2016-1 dated 17.03.2017, issued by the 1st respondent. There shall be no orders as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending stand closed.

A large, faint green circular seal of the High Court of Andhra Pradesh is centered in the background. It features the text 'HIGH COURT OF ANDHRA PRADESH' around the top and 'FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH' around the bottom. In the center is the Ashoka Lion Capital and the motto 'सत्यमेव जयते' (Satyameva Jayate) in Devanagari script.
M.S.RAMACHANDRA RAO, J

Date: 28-12-2018

JR

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