HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT APPEAL No.251 OF 2019

JUDGMENT: (Per the Hon'ble Sri Justice A.Rajasheker Reddy)

We have heard learned counsel for the appellant-2nd respondent the learned counsel for the 1st respondent-writ petitioner.

2. This writ appeal is filed against the order dated 25.02.2019 passed in W.P.No.1887 of 2019 wherein and whereby the learned single Judge set aside the termination order dated 22.01.2019 on the ground violation of principles of natural justice, besides reinstating the petitioner into service with all consequential benefits.

3. The learned counsel for the appellant submits that the learned single Judge without the considering the contents of the counter affidavit allowed the writ petition. He further submits that even if the statement of witnesses, who were recalled, is taken into account, still the charges against the 1st respondent-writ petitioner remain unaltered. As such, the order passed by the learned single Judge is erroneous.

4. The learned counsel for the 1st respondent-writ petitioner justifies the order of the learned single Judge.

5. In this case, it is to be seen that the learned single Judge in paragraph 6 of the impugned order observed that the witnesses were recalled and their statements were recorded on 30.11.2018, but the writ petitioner was not summoned that day. The learned single Judge further observed that the statements of the witnesses recorded by the

appellant behind the back of the writ petitioner is violative of principles of natural justice and are invalid and basing on the same, the services of the petitioner could not be terminated.

6. We have perused the order passed by the learned single Judge and the order of termination impugned in the writ petition. Once the witnesses are examined behind the back of the writ petitioner and basing on the same, the impugned termination order could not have been passed. The learned single Judge rightly found that the same is violative of principles of natural justice. In view of the same, we are not inclined to entertain this intra court appeal.

7. Writ appeal fails and is, accordingly, dismissed. However, it is open for the appellant to conduct *de novo* enquiry in accordance with law and take action after reinstating the 1st respondent-writ petitioner into service, as directed by the learned single Judge. The 1st respondent-writ petitioner shall cooperate with the enquiry. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall also stand dismissed.

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THOTTATHIL B. RADHAKRISHNAN, CJ

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A. RAJASHEKER REDDY, J

25th March, 2019
Lrkm