

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION (TR) NOs.5270, 5271 and 5272 OF 2017

COMMON ORDER:

All these three writ petitions are disposed of by way of this common order, as the issue raised in these writ petitions is one and the same.

Heard the learned counsel for the petitioners and the learned Government Pleader for Home (Services-I).

For convenience, the facts in W.P.(Tr).No.5270 of 2017 are discussed hereunder:

It has been contended by the petitioner that he was initially appointed as a Home Guard vide orders dated 18.07.2007 and ever since he has been discharging his duties without any complaints. The petitioner further contends that while he was discharging his duties as Home Guard during October, 2015, the 4th respondent had issued a show cause notice on 01.10.2015 to the effect that the petitioner was indulging in serious corrupt activities and collecting mamools. The petitioner has submitted an explanation to the said show cause, but the respondents, without conducting any enquiry or giving any opportunity, had removed him from service vide proceedings dated 05.11.2015.

Learned counsel appearing for the petitioners contends that the issue whether the Home Guards can be removed without conducting detailed enquiry and without following the provisions of Section 7 (4) of Home Guards Act, fell for consideration before this Court in W.P.No.28875 of 2011 and batch of cases and this Court vide orders, dated 07.09.2011, has set aside the orders of removal on the ground that no enquiry was conducted and no opportunity was given to the Home Guards therein. Learned counsel appearing for the petitioners further contends that since

the orders of removal are contrary to the orders passed by this Court in W.P.No.28875 of 2011 and batch, the impugned removal orders dated 05.11.2015 are liable to be set aside and the petitioners shall be reinstated into service.

Learned Government Pleader appearing for the respondents had not disputed the same and contended that the issue raised in these writ petitions is squarely covered by the judgment referred supra.

This Court, having considered the rival submissions made by the respective parties, is of the considered view that the impugned removal orders dated 05.11.2015 are liable to be set aside in view of the orders passed on 07.09.2011 in W.P.No.28875 of 2011 and batch of cases, as the respondents have not conducted any enquiry nor given any opportunity to the petitioners before passing orders of removal.

With the above observations, the writ petitions are allowed setting aside the impugned removal orders, dated 05.11.2015, and the respondents are directed to reinstate the petitioners into service with all consequential benefits. No costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Dated: 31st January, 2019
v v

