

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SMT. JUSTICE P.MADHAVI DEVI

WRIT PETITION NO: 18611 OF 2022

Between:

K. Buchaiah, S/o Mallaiah, Lecturer in Botany, Government Degree College, Kagaznagar, (under orders of Compulsory Retirement).

...PETITIONER

AND

1. State of Telangana, Represented by Secretary to Government, Higher Education Department, TS.
2. Commissioner of Collegiate Education, Telangana State, Nampally, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or direction, more particularly in the nature of a Writ of Mandamus, duly declaring the orders issued in Procs. Rc.No.CCE-SER3/GEN/50/2020-GEN, dated 15-03-2022 and the disciplinary proceedings issued in CCE Procs. Rc.No.34/Ser.III-2/2017-1. dated 08-07-2017 as null and void on the grounds of (i) not conducting the enquiry at all. (ii) not following CCA Rules, (iii) misleading statements about the W.P.No.13723 of 2021 (iv) inordinate delay of more than 4 years, (v) malafide intention, (vi) colorable exercise of power, (vii) punishment not proportionate to misconduct, if any, and shocking. (viii) The enquiry report and final orders are not speaking orders (ix) orders issued beyond the time limit prescribed by the Hon'ble High Court.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the orders issued by the Commissioner of Collegiate Education, Hyderabad (R-2) in Procs. Rc.No.CCE-SER3/GEN/50/2020-GEN, dated 15-03-2022 and to direct the respondents to allow me to work in the college as usual and to issue suitable orders fit and proper in the circumstances of the case.

Counsel for the Petitioner : SRI. G. SETHU MADHAVA RAO

Counsel for the Respondent 1 & 2 : GP FOR SERVICES I

The Court made the following : ORDER

THE HONOURABLE SMT. JUSTICE P. MADHAVI DEVI

WRIT PETITION NO.18611 OF 2022

ORDER

This Writ Petition is filed challenging the proceedings Rc.No.CCE-SER3/GEN/50/2020-GEN, dt.15.03.2022 placing the petitioner under suspension and the disciplinary proceedings issued in CCE Procs. Rc.No.34/Ser.III-2/2017-1, dt.08.07.2017 as null and void on the grounds of

- (i) not conducting the enquiry at all;
- (ii) not following CCA Rules;
- (iii) misleading statements about W.P.No.13723 of 2021;
- (iv) inordinate delay of more than 4 years;
- (v) malafide intention,
- (vi) colourable exercise of power;
- (vii) punishment not proportionate to misconduct, if any, and shocking;
- (viii) the enquiry report and final orders are not speaking orders; and
- (ix) orders issued beyond the time limit prescribed by the Hon'ble High Court.

2. Brief facts leading to the filing of this Writ Petition are that the petitioner was working as a Lecturer in Botany in SRR Government Arts & Science College, Karimnagar. The petitioner was suspended from service on 13.02.2017 and later on, pending finalisation of the disciplinary case, the suspension was revoked *vide* proceedings dt.20.06.2017 and the petitioner was posted in Kakatiya Government Degree College, Hanamkonda, Warangal District and he joined the said college on 22.06.2017 and the period of suspension was only from 13.02.2017 to 21.06.2017, i.e., about 4 ½ months. The articles of charge was served on the petitioner by the 2nd respondent *vide* proceedings dt.08.07.2021, to which the petitioner submitted a detailed reply *vide* his letter dt.21.08.2017 through the Principal, Kakatiya Government Degree College, Hanamkonda, Warangal District. It is submitted that no action was taken by the disciplinary authority till 23.02.2021 when the petitioner made a request to the 2nd respondent to conclude the disciplinary proceedings and regularise the suspension period from 13.02.2017 to 21.06.2017 as on duty and make arrangement for payment of salary for the said period. It is submitted that the petitioner thereafter

represented to the appellate authority, Special Chief Secretary to Government, Higher Education on 16.04.2021 requesting to quash the disciplinary proceedings on the ground of inordinate delay and to regularise the suspension period from 13.02.2017 to 21.06.2017 as on duty and to arrange for payment of salary for the said period. However, there was no response from the appellate authority as well.

3. Aggrieved, the petitioner filed W.P.No.13723 of 2021 which was disposed of directing the respondents to conclude the enquiry proceedings pursuant to the suspension order as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of the order dt.13.08.2021. It is submitted that the appeal of the petitioner was not disposed of within the time granted by this Court, but by order dt.15.03.2022, the petitioner was compulsorily retired with eligibility to draw pension and gratuity at the rate of full invalid pension as on the date of his compulsory retirement as per the provisions of Rule 39 of the Revised Pension Rules, 1980 and as per rules in vogue. The period of suspension was directed to be treated as

non-duty and to be regularised as leave due and admissible. Challenging the said order of compulsory retirement, the present writ petition is filed.

4. Learned counsel for the petitioner, Sri Gaddam Sethu Madhav Rao, submits that the petitioner was placed under suspension in 2017 on the basis of some material which was allegedly found during the course of enquiry being conducted by the respondent authorities in the case of two of his colleagues, i.e., Dr. B. Madhusudhan Reddy, retired Principal GDC, Choppadandi and Sri P. Nithin, Principal (FAC), SRR Government Degree College, Karimnagar. It is submitted that on the basis of the said alleged information found in the enquiry report of those two officers, the articles of charge were framed against the petitioner. He submits that at the time of issuing the articles of charge itself, it is mentioned that the charge is confirmed and therefore, it is pre-meditated motive of issuing the charge sheet to the petitioner after coming to the conclusion that the petitioner is guilty. This, according to the learned counsel, is in violation of principles of natural justice and also in violation of CCA Rules of 1991. He further submits that after the petitioner has submitted his explanation, the respondents did not take

any further action and during the pendency of the enquiry proceedings, the petitioner had requested the respondents to provide copies of the complaints on the basis of which charges have been framed and the petitioner was under suspension on 13.02.2017. He submits that no information was furnished to the petitioner thereafter and the order of punishment of compulsory retirement was passed against the petitioner. He further submits that even during the enquiry, no person, leave alone the complainants if any, was examined and thus petitioner was denied any opportunity of cross-examination to elicit the truth and therefore, the enquiry itself is a farce and the enquiry report, on the basis of such an enquiry, cannot be relied upon. He also submits that even the disciplinary authority has not considered the enquiry report in proper perspective. He points out that in the first page of the enquiry report, the enquiry officer has clearly mentioned that the charged officer participated in the enquiry from the beginning to the end throughout the enquiry proceedings, whereas in the last paragraph, he mentioned that the charged officer has not cooperated with the enquiry officer to conduct the enquiry. He thus submits that the enquiry officer's findings being contrary to each other in the first page and in the last paragraph

cannot be relied upon. In view of the same, according to the learned counsel, the petitioner has been targeted and the order of compulsorily retiring the petitioner from service was passed with pre-meditated motive and hence, the petitioner should be directed to be reinstated into service by setting aside the punishment order.

5. Learned Government Pleader for Services-I relied upon the averments made in the counter affidavit and submitted that the petitioner was given due opportunity of hearing and therefore, there was no illegality in the order of punishment.

6. Having regard to the rival contentions and the material on record, it is noticed that there was no direct complaint against the petitioner before the disciplinary authority, on the basis of which disciplinary proceedings were initiated. From a reading of the charges framed against the petitioner, the enquiry report against two of the employees of the respondents, i.e., Dr. B. Madhusudhan Reddy and Sri P. Nithin, is the basis for arriving at the conclusion that there were complaints against the petitioner by some of the students and colleagues and it is on the basis of such material that the charges have been framed. It is trite

law that any material on the basis of which action has been initiated against any employee has to be provided to the employee in order to enable him to meet those allegations and submit his explanation thereon. Admittedly, the respondents have not provided such information to the petitioner in spite of the petitioner making an application on 13.09.2021. This is in clear violation of principles of natural justice. Without furnishing the material on which the respondents base their charges to the petitioner, the petitioner could not have given his explanation on the charges levelled against him. Even from the enquiry report, it is noticed that none of the complainants have been examined, thus denying the opportunity of cross-examination to the petitioner and on the basis of some hearsay evidence, the petitioner has been awarded with punishment of compulsory retirement.

7. In view of the same, this Court deems it fit and proper to set aside the order of punishment dt.15.03.2022 and direct the respondents to reinstate the petitioner into service with all consequential benefits. However, liberty is also given to the respondents to take action in

accordance with law by providing reasonable opportunity to the petitioner if there are any complaints against the petitioner.

8. The Writ Petition is accordingly allowed. No order as to costs.

9. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed.

SD/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary to Government, Higher Education Department, State of Telangana, TS
2. Commissioner of Collegiate Education, Telangana State, Nampally, Hyderabad
3. One CC to SRI. G. SETHU MADHAVA RAO, Advocate. [OPUC]
4. Two CCs to GP FOR SERVICES I, High Court for the State of Telangana at Hyderabad. [OUT]
5. Two CD Copies.
6. One Spare Copy.

JS

GJP

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HIGH COURT

DATED : 16/08/2022



ORDER

WP.No. 18611 of 2022

ALLOWING OF THE WRIT PETITION
WITHOUT COSTS

[Handwritten signature]
30/08/2022