

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

**WEDNESDAY, THE FIFTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SHRI JUSTICE ANIL KUMAR JUKANTI**

WRIT PETITION NO: 9344 OF 2010

Between:

1. The Government of A.P., Rep. by its Principal Secretary to Government Home Department Secretariat, Hyderabad
2. The Director General, Inspector General of Police, Government of A.P. Hyderabad

...PETITIONERS

AND

1. B. Raja Ratnam, Head Constable (Under Orders of Removal) District Special Branch, Nalgonda, Nalgonda District.
2. The Andhra Pradesh Administrative Tribunal, Rep. by its Registrar, Purani Haveli, 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 one in the nature of writ of Certiorari calling for records relating to and connected with orders in O.A.No. 8235 of 2002 dt. 12-8-2009 on the file of the Hon'ble A.P. Administrative Tribunal, passed in and to quash the same by holding as erroneous and contrary to law.

I.A. NO: 1 OF 2010(WPMP. NO: 12066 OF 2010)

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 operation in OA No. 8235 of 2002 dt. 12-8-2009 on the file of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad.

I.A. NO: 1 OF 2016(WVMP. NO: 190 OF 2016)

Between:

B. Raja Ratnam, Head Constable (Under Orders of Removal) District Special Branch, Nalgonda, Nalgonda District.

...PETITIONER/1st RESPONDENT/RESPONDENT

AND

1. The Government of A.P., Rep. by its Principal Secretary to Government Home Department Secretariat, Hyderabad
2. The Director General, Inspector General of Police, Government of A.P. Hyderabad

...RESPONDENTS/PETITIONERS/PETITIONERS

3. The Andhra Pradesh Administrative Tribunal, Rep. by its Registrar, Purani Haveli, Hyderabad.

...RESPONDENT/2nd RESPONDENT/ 2nd RESPONDENT

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 vacate the interim directions passed by this Court in WPMP No. 12066 of 2010 in WP No.9344 of 2010, dated: 23.04.2010

**Counsel for the Petitioners: SRI M.V. RAMA RAO, SPL. GP FOR GP FOR HOME
Counsel for the Respondent No.1: SRI B.SUBASH
Counsel for the Respondent No.2: --**

The Court made the following: ORDER

**THE HON'BLE SHRI JUSTICE ABHINAND KUMAR SHAVILI
AND**

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION No.9344 OF 2010

ORDER: (Per AKS,J)

This Writ Petition is filed aggrieved by the order, dated 12.08.2009, passed in O.A.No.8235 of 2002 by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, 'the Tribunal').

2. Heard the learned Special Government Pleader appearing for the petitioners and Sri B. Subash, learned counsel for respondent No.1.

3. Learned Special Government Pleader appearing for the petitioners had contended that respondent No.1 was working as a Head Constable and when a surprise ACB check was conducted, it was found that he was demanding bribe. Therefore, disciplinary proceedings were initiated against him and a Charge Memo was issued on 28.01.1995. After conducting a detailed enquiry, for the proven misconduct in the enquiry, the State Government has imposed punishment of removal from service on respondent No.1 *vide* G.O.Ms.No.243, dated 12.08.2002. Aggrieved by the same, respondent No.1 approached the Tribunal by filing the subject O.A.No.8235 of 2002 and the Tribunal, *vide* impugned order, dated 12.08.2009, was pleased to set aside the removal order, dated 12.08.2002, and directed the petitioners to reinstate respondent No.1

into service, without appreciating any of the contentions raised by the petitioners.

4. Learned Special Government Pleader appearing for the petitioners had further contended that the Tribunal got carried away with the pendency of a criminal case against respondent No.1 and as no charge sheet is filed in the said criminal case, the Tribunal has set aside the order of removal. Learned Special Government Pleader further contended that pendency of a criminal case has nothing to do with the present case, as admittedly, the petitioners have conducted a detailed enquiry and for the proven misconduct in the departmental enquiry, the State Government has imposed the punishment of removal from service on respondent No.1 *vide* G.O.Ms.No.243, dated 12.08.2002. Therefore, the Tribunal was not justified in re-appreciating the evidence, that too, by examining the facts in a criminal case, and in setting aside the order of removal from service. Therefore, appropriate orders be passed in the Writ Petition by setting aside the impugned order, dated 12.08.2009, and allow the Writ Petition.

5. Learned counsel for respondent No.1 had contended that the Tribunal was justified in allowing the subject O.A. in favour of respondent No.1, as admittedly, no charge sheet is filed before the

ACB Court against respondent No.1 for 18 long years and this fact was taken into consideration by the Tribunal while setting aside the order of removal from service. Admittedly, no reasons were assigned by the State Government while passing the removal order, dated 12.08.2002. Admittedly, respondent No.1 has put in 24 years of service. The State Government, without examining the case of respondent No.1 and without examining whether the punishment of compulsory retirement could be imposed or not, passed the order of removal from service against respondent No.1. Therefore, the Tribunal was justified in allowing the subject O.A. in favour of respondent No.1 and the Tribunal had rightly directed the petitioners to reinstate respondent No.1 into service. Therefore, there are no merits in the Writ Petition and the same is liable to be dismissed.

6. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the considered view that the Tribunal was not justified in setting aside the order of removal from service imposed on respondent No.1 by relying on the fact that no charge sheet is filed before ACB Court for 18 long years. That has no relevance while adjudicating the case of respondent No.1. The petitioners have imposed the punishment of removal from service on respondent No.1 based upon the proven misconduct in the domestic enquiry. However, a perusal of the removal order, dated 12.08.2002,

would disclose that the State Government, without assigning any reason and without applying its mind, except stating that the explanation submitted by respondent No.1 is not convincing, has straightaway passed the order of removal from service against respondent No.1. On this ground, the removal order, dated 12.08.2002, passed by the State Government is liable to be set aside. Further, it is a fact that respondent No.1 has put in 24 years of service with the petitioners. Therefore, this Court is of the considered view that it would be appropriate if the matter is remanded to the State Government to reconsider the case of respondent No.1 and to impose any other punishment other than dismissal or removal from service, as admittedly, the punishment of removal from service is shockingly disproportionate to the charge levelled against respondent No.1 and that the State has also not pursued the criminal case, which has been lodged against respondent No.1, and no charge sheet is filed before the ACB Court for 18 long years.

7. Accordingly, the Writ Petition is disposed of and the impugned order, dated 12.08.2009, passed in O.A.No.8235 of 2002 by the Tribunal and G.O.Ms.No.243, dated 12.08.2002, issued by the State Government are set aside and the matter is remanded to the State Government to reconsider the case of respondent No.1 and pass appropriate orders by imposing any other punishment other than

dismissal or removal from service on respondent No.1, in accordance with law, within a reasonable period of time, preferably, within a period of two (2) months from the date of receipt of a copy of this order. It is always open to the State Government to take appropriate decision, in accordance with law, in view of the above observations made by this Court. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

//TRUE COPY//

SD/-P.GOWRI SHANKAR
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. One CC to SRI M.V. RAMA RAO, SPL. GP [OPUC]
2. Two CCs to GP FOR HOME, High Court for the State of Telangana, at Hyderabad. [OUT]
3. One CC to SRI B.SUBASH, Advocate [OPUC]
4. Two CD Copies

PSK.
GJP

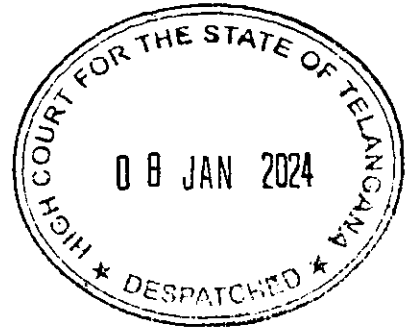
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HIGH COURT

DATED:15/11/2023

ORDER

WP.No.9344 of 2010



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS.

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