

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

**FRIDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE PULLA KARTHIK**

WRIT PETITION NO: 4123 OF 2015

Between:

1. The State of Telangana,, Represented by its Principal Secretary, Education Department, Secretariat, Hyderabad.
2. The Director of School Education, Telangana, Hyderabad, -
3. The District Educational Officer, Khammam District, Khammam, -
4. The Mandal Educational Officer,, Mandal Parishath, Cherla, Khammam District

(Cause Title is amended as per court Order dated 12.02.2015 in MP No. 2451 of 2015)

...PETITIONERS

AND

1. Mohd.Yakub Ali,, S/o Bashumiya, Retired Primary School Head Master
Mandal Praja Parishath School Headmaster, Mandal Praja Parishath School,
Upparigudem, Mandal Parishath, Cherla, Khammam District
....RESPONDENT/APPLICANT in O.A 7662 Of 2007
2. The Hon'ble Andhra Pradesh Administrative Tribunal,, rep. by its Registrar
Purana Haveli, Hyderabad

...RESPONDENT

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 the records relating to and connected with order dated 04.10.2010 in O.A.No.7662/2007 on the file of the Hon'ble Andhra Pradesh Administrative Tribunal., Hyderabad and to quash or set aside the same by holding as erroneous and contrary to law

I.A. NO: 2 OF 2015(WPMP. NO: 5470 OF 2015)

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 order of Hon'ble A.P.Administrative Tribunal dated 04-10-2010 in O.A.No.7662/2007

Counsel for the Petitioners: GP FOR SERVICES I

Counsel for Respondent No. 1: SRI SRINIVASA RAO MADIRAJU

The Court made the following: ORDER

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

THE HON'BLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION No.4123 OF 2015

ORDER: (per AKS,J)

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners aggrieved by the order, dated 04.10.2010, passed in O.A.No.7662 of 2007 by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, 'the Tribunal').

2. Heard the learned Government Pleader for Services-I appearing for the petitioners and Sri M. Srinivasa Rao, learned counsel appearing for the respondent No.1.
3. Learned Government Pleader appearing for the petitioners had contended that the respondent No.1 while working as a Primary School Head Master, was placed under suspension on 18.12.2002 on the ground that he was involved in a criminal case i.e. C.C.No.652 of 2006 on the file of Judicial Magistrate of First Class, Bhadrachalam, registered for the offence under Section 498A I.P.C. The respondent No.1 retired from service on 31.01.2006, while he was under suspension. Finally, the

respondent No.1 was acquitted in the said criminal case by the competent criminal Court *vide* judgment, dated 02.05.2006. Thereafter, the respondent No.1 submitted an application seeking to regularize the suspension period from 13.11.2002 to 31.01.2006. The case of the respondent No.1 was considered and the petitioner No.2 passed order, dated 15.02.2007, holding that the suspension period cannot be treated as on duty and the same was confirmed by the petitioner No.3-District Educational Officer, Khammam, *vide* order, dated 12.06.2007, observing that treating the suspension period as on duty is not feasible. Aggrieved by the said orders, dated 15.02.2007 and 12.06.2007, the respondent No.1 has approached the Tribunal by filing the subject O.A. and the Tribunal, *vide* impugned order, dated 04.10.2010, was pleased to allow the subject O.A. in favour of the respondent No.1 and directed the petitioners to regularize the suspension period from 13.11.2002 to 31.01.2006 as on duty with all consequential benefits, without appreciating any of the contentions raised by the petitioners.

4. Learned Government Pleader further contended that the respondent No.1 was involved in a criminal case and that

necessitated the petitioners to place the respondent No.1 under suspension. When the respondent No.1 was involved in a criminal case on his own fault, he cannot turn around and contend that the suspension period should be treated as spent on duty. This fact was not properly considered by the Tribunal. Therefore, appropriate orders be passed in the Writ Petition by setting aside the impugned order and allow the Writ Petition.

5. On the other hand, learned counsel appearing for the respondent No.1 had contended that no disciplinary proceedings were initiated against the respondent No.1 and the respondent No.1 was placed under suspension only on the ground that a criminal case was registered against him, that too, for the offence under Section 498A I.P.C. However, finally, the competent criminal Court was pleased to acquit the respondent No.1 in the said criminal case, *vide* judgment, dated 02.05.2006. Mere pendency of a criminal case would not authorize the petitioners to place the respondent No.1 under suspension and the respondent No.1 has been requesting the petitioners to reinstate him into service, but the petitioners have not considered his case for reinstatement. Therefore, the

Tribunal was justified in allowing the subject O.A. in favour of the respondent No.1 on the ground that no departmental proceedings were initiated against him and he was placed under suspension only on the ground that a criminal case was pending against him. Moreover, the respondent No.1 retired from service on 31.01.2006 itself. At this point of time, interfering with the impugned order passed by the Tribunal would not arise. Moreover, this Court has also not suspended the impugned order, which would mean that the impugned order has been worked out itself.

6. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the view that the Tribunal was justified in allowing the subject O.A. in favour of the respondent No.1 on the ground that no departmental proceedings were initiated against the respondent No.1, except placing him under suspension for the reason that a criminal case was pending against him. Moreover, the respondent No.1 has retired from service way-back in the year 2006 i.e. on 31.01.2006. Apart from that, this Court has also not suspended the operation of the impugned order, which would mean that

the impugned order has been worked out itself. Therefore, this Court is not inclined to interfere with the impugned order passed by the Tribunal.

7. The Writ Petition is, accordingly, dismissed. There shall be no order as to costs.

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

SD/- MOHD. SANAULLAH ANSARI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. Two CCs to GP For Services, High Court for the State of Telangana. [OUT]
2. One CC to Sri Srinivasa Rao Madiraju Advocate [OPUC]
3. Two CD Copies

MBC
GJP



HIGH COURT

DATED: 17/03/2023

17 MAR 2023

ORDER

WP.No.4123 of 2015

DISMISSING THE WRIT PETITION

WITHOUT COSTS

(6)

mbc
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