

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**MONDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

WRIT APPEAL NO: 884 OF 2024

Writ Appeal under clause 15 of the Letters Patent preferred against the Order dated 04/07/2024 in W P No 11973 of 2023 on the file of the High Court.

Between:

1. Board of Governors, National Institute of Technology, Warangal. Hanumakonda-506 004, Telangana State, Rep. by its Director.
2. Director, National Institute of Technology, Warangal- 506 004.

...APPELLANTS

AND

1. G Balasubramanyam, aged.53 years, S/o Late Sri G S C Sarma, Occ. Assistant (SG-I) (on compulsory retirement). National Institute of Technology, Warrangal 506-004. R/o 1.1-79, Chaitanyapuri Colony, Hanumakonda-506 004.
2. Union of India, Ministry of Human Resource Development, (Department of Higher Education), Government of India, New Delhi, rep. by its Secretary to Government of India.

...RESPONDENTS

IA NO: 1 OF 2024

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 impugned order dated 04.07.2024 passed in W.P.No.11973 of 2023 pending disposal of the writ appeal.

Counsel for the Appellants: SRI T.MAHENDER RAO, SC FOR NIRD

Counsel for the Respondent No.1: SRI Dr. K.LAKSHMI NARASIMHA

**Counsel for the Respondent No.2: SRI GADI PRAVEEN KUMAR,
DEPUTY SOLICITOR GENERAL OF INDIA**

The Court delivered the following: JUDGMENT

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

WRIT APPEAL No.884 OF 2024

JUDGMENT: (Per Hon'ble Sri Justice Abhinand Kumar Shavili)

This Writ Appeal is filed aggrieved by the order, dated 04.07.2024, passed in W.P.No.11973 of 2023 by a learned Single Judge of this Court.

2. Heard Sri T. Mahender Rao, learned Standing Counsel appearing for the appellants and Dr. K. Lakshmi Narasimha, learned counsel for respondent No.1.

3. Learned Standing Counsel appearing for the appellants had contended that respondent No.1 was initially appointed as Junior Assistant in the then Regional Engineering College, Warangal, on 12.05.1993. Later, he was promoted as Assistant Selection Grade-I. While so, the Regional Engineering College, Warangal, was taken over by the Central Government by way of an enactment i.e. The National Institute of Technology, Science Education and Research Act, 2007 (for short, 'the Act, 2007'), with effect from 15.08.2007. As per Section 24 of the Act, 2007, the appointing authority for teaching faculty is the Board of

Governors and in respect of non-teaching staff, it is the Director of respective National Institute of Technology.

4. Learned Standing Counsel appearing for the appellants had further contended that respondent No.1 had indulged in certain irregularities like insubordination and making allegations against the officials of the appellants that they are accepting bribes from the contractors. As the appointing authority for the post of Assistant Selection Grade-I is the Director, as per Section 24(b) of the Act, appellant No.2-Director, National Institute of Technology, Warangal, has initiated disciplinary proceedings against respondent No.1 by issuing a Charge Memo on 24.06.2020. In all, six Articles of Charges were framed against respondent No.1. Respondent No.1 has submitted his explanation to the said Charge Memo, but the disciplinary authority was not satisfied with the said explanation and ordered for regular departmental enquiry. A detailed enquiry was conducted and the Inquiry Officer submitted Inquiry Report, dated 12.08.2022, holding that two charges were proved. Based upon the Inquiry Officer's report, the disciplinary authority i.e. appellant No.2, has imposed the punishment of compulsory retirement on respondent No.1 *vide* proceedings, dated 13.10.2022. Aggrieved by the same,

respondent No.1 has preferred an appeal to appellant No.1-Board of Governors, National Institute of Technology, Warangal, and appellant No.1 was pleased to dismiss the appeal preferred by respondent No.1 *vide* proceedings, dated 17.04.2023. Aggrieved by the proceedings, dated 13.10.2022 and 17.04.2023, respondent No.1 has approached this Court by filing the subject W.P.No.11973 of 2023 and the learned Single Judge of this Court *vide* impugned order, dated 04.07.2024, was pleased to set aside the order of punishment and directed the appellants to reinstate respondent No.1 into service with all consequential benefits, without appreciating any of the contentions raised by the appellants.

5. Learned Standing Counsel appearing for the appellants had further contended that the learned Single Judge has interfered with the punishment of compulsory retirement imposed by appellant No.2 on the ground that appellant No.2-Director is not the competent authority. The learned Single Judge has agreed with the contention of the appellants that, in the instant case, the appointing authority is the Director. But, the learned Single Judge has come to a conclusion that the appointing authority, in normal circumstances, is the disciplinary authority, but in respect

of the appellant-institute, it is governed by the Act, 2007, which is a special Act, and as per Statue No.17 (17) of the amended First Statute of the National Institutes of Technology, the disciplinary powers for Director of the Institute shall be decided by the Board of Governors of the respective National Institute of Technology from time to time. Admittedly, in the instant case, the learned Single Judge opined that the Board of Governors never gave any sanction to the Director to act as a disciplinary authority and in view of the same, the Director is not the disciplinary authority, and on that ground, the learned Single Judge has set aside the punishment of compulsory retirement and directed the appellants to reinstate respondent No.1 into service with all consequential benefits.

6. Learned Standing Counsel appearing for the appellants had further contended that if the learned Single Judge is of the opinion that the Director is not the disciplinary authority, then the learned Single Judge ought to have remanded the matter to the appellants to initiate disciplinary action by the appropriate authority. Learned Standing Counsel further contended that a notification was issued by the Ministry of Human Resource Development, in exercise of power conferred under Section 26 of

the Act, 2007, and as per the said notification, the appellants are following the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (for short, 'CCS (CCA) Rules') and as per Rule 12 of the CCS (CCA) Rules, the appointing authority is the disciplinary authority. Admittedly, in the instant case, the Director is the appointing authority for the post of Assistant Selection Grade-I. Therefore, the learned Single Judge erred in coming to a conclusion that the Director is not the disciplinary authority and in set aside the punishment of compulsory retirement.

7. Learned Standing Counsel appearing for the appellants had further contended that respondent No.1 has neither questioned nor raised any issue with regard to the initiation of disciplinary proceedings by appellant No.2-Director. He has not challenged the jurisdiction of the Director while participating in the regular enquiry. Only after dismissal of the appeal by the Board of Governors, respondent No.1 has raised the issue that the Director is not the disciplinary authority. Therefore, appropriate orders be passed in the Writ Appeal by setting aside the impugned order, dated 04.07.2024, and allow the Writ Appeal.

8. On the other hand, learned counsel for respondent No.1 had contended that Section 24 of the Act, 2007, makes it abundantly clear that all appointments of the staff of every institute, except that of the Director, shall be made in accordance with the procedure laid down in the Statute by the Board of Governors, if the appointment is made on the academic staff in the post of Lecturer or above or if the appointment is made on the non-academic staff in any cadre where the maximum pay-scale exceeds Rs.10,500/-, and in respect of any other case, the appointments shall be made by the Director.

9. Learned counsel appearing for respondent No.1 had further contended that, admittedly, when the appellant-institute was taken over by the Central Government by enactment of the Act, 2007, the pay-scale of respondent No.1 was Rs.18,500/- per month, which would mean that the Board of Governors is the appointing authority, but not the Director. This fact was rightly considered by the learned Single Judge and came to a conclusion that initiation of disciplinary proceedings by the Director is without jurisdiction. Therefore, the learned Single Judge has rightly set aside the order of punishment.

10. Learned counsel appearing for respondent No.1 had further contended that appellant No.2-Director had imposed the punishment of compulsory retirement and he had also decided the appeal, by sitting as a Chairman of the Board of Governors. On this ground also, the learned Single Judge has rightly set aside the order of punishment. The person, who has imposed the punishment of compulsory retirement, while working as a Director, has heard the appeal, while he was discharging his duties as a Chairman of the Board of Governors. Therefore, the Board of Governors had also not properly appreciated the case of respondent No.1. The Board of Governors headed by the Chairman, who was none other than the person who has imposed the original punishment of compulsory retirement, has adjudicated the appeal and therefore, no justice would be rendered to respondent No.1. Hence, the learned Single Judge has rightly set aside the punishment order and directed the appellants to reinstate respondent No.1 into service.

11. Learned counsel appearing for respondent No.1 had further contended that when the appellants have contended that the CCS (CCA) Rules are applicable to the appellant-institute, then the appellants should classify the employees working with them i.e.

whether they fall under Categories A, B or C. In the instant case, no such categorization has taken place and the appellants have not categorized the post of respondent No.1, so as to initiate disciplinary proceedings as per the CCS (CCA) Rules. Further, a perusal of Section 24 of the Act, 2007, makes it very clear that all appointments of faculty and above and all appointments of non-academic staff, whose pay exceeds Rs.10,500/-, shall be made by the Board of Governors. Admittedly, as on the date the Regional Engineering College, Warangal, was taken over by the central Government by way of enactment of the Act, 2007, the pay of respondent No.1 was more than Rs.10,500/-, which would mean that the appointing authority of respondent No.1 is the Board of Governors and the Board of Governors alone can initiate disciplinary proceedings. Therefore, looked from any angle, the learned Single Judge was justified in setting aside the order of punishment of compulsory retirement. Therefore, there are no merits in the Writ Appeal and the same is liable to be dismissed.

12. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the considered view that a perusal of Section 24 of the Act, 2007, makes it abundantly clear that in respect of appointment of academic staff in the post

of Lecturer and above or in respect of appointment of non-academic staff in any cadre, where the maximum pay-scale exceeds Rs.10,500/-, the appointing authority is the Board of Governors. As respondent No.1 was drawing more than Rs.10,500/- per month as on the date of initiation of disciplinary proceedings, the Director could not be the appointing authority. Therefore, initiation of disciplinary proceedings against respondent No.1 by the Director was not in accordance with the provisions of the Act, 2007. Therefore, the learned Single Judge was justified in interfering with the punishment of compulsory retirement and in setting aside the order of compulsory retirement, dated 13.10.2022, passed by the Director, as the Director is not the competent authority to initiate disciplinary proceedings and to impose the punishment of compulsory retirement. Further, the learned Single Judge was also justified in directing the appellants to reinstate respondent No.1 into service with all consequential benefits. However, the learned Single Judge ought to have given liberty to the competent authority i.e. Board of Governors, to initiate disciplinary proceedings against respondent No.1, as per Section 24 of the Act, 2007. Therefore,

it is always open for the Board of Governors to initiate disciplinary action against respondent No.1, if they choose to do so.

13. With the above observations, the Writ Appeal is dismissed.
There shall be no order as to costs.

Miscellaneous Applications, if any, pending in this Writ Appeal, shall stand closed.

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SD/-K.SAILESHI
JOINT REGISTRAR
SECTION OFFICER

To,

1. One CC to SRI T.MAHENDER RAO, SC FOR NIRD [OPUC]
2. One CC to SRI Dr. K.LAKSHMI NARASIMHA, Advocate [OPUC]
3. One CC to SRI GADI PRAVEEN KUMAR, DEPUTY SOLICITOR GENERAL OF INDIA, High Court for the State of Telangana at Hyderabad [OPUC]
4. Two CD Copies

BSR

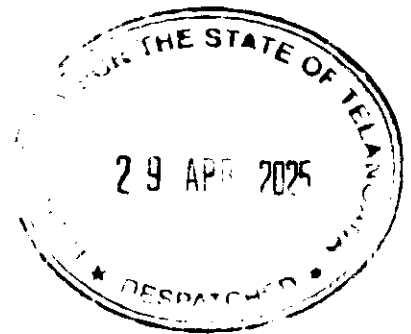
LS 

HIGH COURT

DATED:21/04/2025

JUDGMENT

WA.No.884 of 2024



DISMISSING THE WRIT APPEAL,
WITHOUT COSTS

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