
(2003) 08 AP CK 0049

In the Andhra Pradesh High Court

Case No : Writ Petition No. 18610 of 2002

Pushpinder Kaur

APPELLANT

Vs

Government of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 08-08-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 2 ALD 206 : (2004) 2 ALT 573

Hon'ble Judges : E. Dharma Rao, J

Bench : Single Bench

Advocate : K.R. Prabhakar, for the Appellant;

Judgement

E. Dharma Rao, J.—This writ petition is filed to issue a writ of mandamus declaring the action of the respondents in terminating the services of the petitioner - Smt. Pushpinder Kaur during the subsistence of valid period by issuing G.O. Rt. No. 1294 dated 21-8-2002 on the suggestion of the then Acting Chairman of the A.P. Administrative Tribunal and also to declare paragraph No. 9 of G.O. Ms. No. 187 dated 6-12-2000 as illegal, unjust, discriminatory, violative of Articles 14, 16 and 212 of the Constitution of India and consequently to set aside G.O. Ms. No. 1294 dated 21-8-2002 and to declare paragraph No. 9 of G.O. Ms. No. 187 dated 6-12-2000 is unconstitutional.

2. The facts in narrow compass are that the petitioner is an advocate practising since 8-4-1977 and on 27-12-2000 she was appointed a Government Pleader by G.O. Rt. No. 1821 dated 26-12-2000, A.P. Administrative Tribunal, on linguistic minority in Education Department and on 4-12-2002 she was shifted to Medical and Health Department and her services were appreciated by various departments. While so, the Government of Andhra Pradesh issued G.O. Ms. Rt. No. 1294 Law Department dated 21-8-2002 terminating the engagement of the petitioner as Government Pleader and also directing the Administrator, Government Pleader's Officer, High Court to pay one month's honorarium to the petitioner in lieu of one month's notice in compliance of Instruction 9 of the A.P.

Law Officers (Appointment and Conditions of Service) Instructions, 2000 (for short Service Instructions), which is assailed in this writ petition as illegal, unjust, violative of Articles 14, 16 and 21 of the Constitution of India.

3. It is averred that as an advocate and Government Pleader, the petitioner was a thorough professional and there was no dissatisfaction from any quarter, which is evident from the letter of the Secretary, Bar Association, A.P. Administrative Tribunal. Besides Education and Medical and Health Departments, the petitioner also represented Forest, Sericulture in her tenure as Government Pleader and her services were applauded by respective departments as is evident from the testimonials issued by the departments. In an attempt to curb the bribery, she reported the matter to the Government and action was initiated against the said person and the Medical and Health Department has appreciated her sincerity. While so, the petitioner was served with a copy of letter dated 3.7.2002 from the Advocate General's Office which was received from the then Acting Chairman, A.P. Administrative Tribunal, stating that the petitioner come to the Court unprepared, unprepared to the cause list and response to the Bench was poor and used to depend on her Assistant Government Pleaders for her work. The petitioner submitted explanation to the said letter on 18.7.2002 denying the allegations stating that had she been unprepared either to the cause list or to the Tribunal, she would have been hauled up by the Bench or by the departments and thus, the allegations are baseless. It is further stated that without considering her explanation, the termination order was served.

4. Aggrieved of the same, the present writ petition is filed contending that the relationship between the Government and the advocate is not one of master and servant, but it is that of a client and professional advocate and therefore, the Executive Instructions issued in G.O. Ms. No. 187 dated 6.12.2000 are contrary; that the executive powers does not extend to the extent of taking capricious and arbitrary decisions; that in view of the various letters reflecting the petitioner's laudable services, there is no room for complaint and there is no charge even remotely on the part of the Government, that the Member of the Tribunal has no jurisdiction to suggest to the Government regarding the desirability or otherwise of continuing the petitioner as Government Pleader and in any event if the conduct is such that she is not upto the mark, the matter can be referred to Bar Council, that since the relationship between the Government Pleader and the Government is that of a client and an Advocate, the Tribunals or the Court should not have any say in that matter and it is impermissible under the Advocates Act; and the learned Advocate-General has failed in his duty to advise the Government that a Member of Tribunal has no jurisdiction to ask for the termination of the Government Pleader; that paragraph No. 9 of G.O. Ms. No. 187 is not in conformity with the Constitution as it is the general Instruction and Instruction 9 which speaks of termination is highly unjust and it does not give any room for the Government Pleader to give explanation. It is submitted that 95% of the cases were decided in favour of the Government and orders were passed by the same Bench, which have given the complaint. The petitioner

further submitted that she never charged excess fee at any time. It is also submitted that a Court cannot suggest a client to change the Counsel in a private case and the same analogy will apply in the present case also. Above all, it is submitted that in similar circumstances, the Commissioner or Sericulture Department in his proceedings dated 21.8.2001 requested the Secretary to the Government, Legal Affairs to change the Government Pleader, the Government did not pass any orders. Therefore, the petitioner prays the Court to set aside the impugned order and allow the writ petition.

5. While issuing rule nisi, this Court granted interim suspension of the impugned order on 6.9.2002.

6. Now the first and second respondents filed WVMP No. 3123 of 2002 to vacate the interim suspension ordered on 23.10.2002. The Secretary to Government, Law Department, filed counter stating that the petitioner was appointed as Government Pleader for three years. It is denied that the petitioner, as a professional, has no dissatisfactory remarks. It is submitted that it is no doubt true that on appointment of the petitioner as Government Pleader, the relationship is that of only client and Counsel, but as per Condition No. 5 of the terms and conditions of appointment, her appointment may be terminated by the Government by giving one month's notice or payment of one month's emoluments and it will be open to her to resign after giving one month's notice. As such, after giving one month's emoluments in lieu of one month's notice, which the petitioner declined to receive, the services of the petitioner were terminated. Therefore, her termination does not suffer from any infirmity and is neither violative of Articles 14, 16 and 21 of the Constitution of India nor G.O. Ms. No. 187 dated 6.12.2000. It is further submitted that Instruction No. 9 of the Andhra Pradesh Law Officers (Appointment and Conditions of Service) Instructions, 2000 issued in G.O. Ms. No. 187 dated 6.12.2000 makes it manifest that either the Government or the Law Officer may terminate the engagement with one month's notice; provided that the Government may terminate the engagement by paying one month's honorarium in lieu of one month's notice. The termination of the petitioner is termination simpliciter without assigning any reasons and there is no stigma cast to her and no rights of hers was infringed. Therefore, the respondents sought for dismissal of the writ petition.

7. In the background of these facts, Mr. S. Ramachandra Rao, former Advocate General, appearing on behalf of the petitioner submitted that having regard to the length of practice at the Bar right from 1977 and proficiency in the faculty, Mr. T. Anantha Babu, the learned Advocate General was pleased to recommend the name of the petitioner vide letter dated 18.10.2000. Accordingly, the petitioner was appointed as Government Pleader vide G.O. Rt. No. 1821 Law (L) Department dated 26.12.2000 as per Service Instructions for a period of three years from the date of her taking charge. Some of the terms and conditions having a bearing on the subject matter of this writ petition are as under:

(1)(a) She shall function under the general superintendence and control of the

Advocate General and shall perform such duties and functions as assigned to her by the Advocate General from time to time;

(b) She shall not appear or give any advice against the interest of the Government or any State Public "Sector undertaking or Company.

(c) She shall be wholly responsible for ensuring that all cases entrusted to her are properly prepared and represented in the Courts.

(2) She should, with the assistance of the Assistant Government Pleaders attached to her, prepare the requisite counter-affidavits in writ petitions, expeditiously and comprehensively.

(3)(4) (5) Her appointment may be terminated by the Government after giving one month's notice or payment of one month's emoluments. It will be open for her to resign after giving one month's notice.

(6)(7) (8) If she holds a post of Standing Counsel under Government Orders, she should resign before she takes charge as Government Pleader.

The appointment order further reads that she shall be paid a consolidated honorarium of Rs. 20,000/- per month. The petitioner assumed charge and while she was working as such dealing with the subject of Medical and Health, the Government through impugned GO disengaged the services of the petitioner with immediate effect and requested the Administrator, Government Pleaders' Office, High Court to pay one month's honorarium in lieu of one month's notice in compliance of Rule 9 of the Service Instructions and also requested the learned Advocate General to furnish a panel of three names of eligible Advocates for appointment to the post of Government Pleader for the Andhra Pradesh Administrative Tribunal, Hyderabad. This order of disengagement of the petitioner was preceded by a DO letter of the learned Advocate General written to the petitioner on 3.7.2002 soliciting her explanation to the letter enclosed which according to the learned Advocate General is self explanatory, received from Mr. A. Venkata Reddy, Acting Chairman and Sri GSRCV Prasad Rao, Member, Administrative Tribunal. Copy of this letter was also marked to the Chief Secretary to Government, General Administration Department and Law Secretary. The contents of the letter elucidates the undesirability of continuing the petitioner as Government Pleader on the ground that she comes totally unprepared to the Court even unprepared to the cause list, that the information required by the Tribunal is also very much delayed and poor apart from filing counters in the matters, that she depends on the Assistant Government Pleader and Clerk attached to her office, in the Court hall, without prior preparation.

8. The petitioner, in response to the above letter, gave a lengthy reply and also marked copies to the Chief Secretary, General Administration Department, Law Secretary, The Honourable the Chief Justice and Bar Council, A.P. Administrative Tribunal and High Court.

9. On consideration of the above explanation the impugned order was passed. Aggrieved of the same, this writ petition is filed contending that the disengagement of the petitioner on the basis of the joint letter addressed by the Acting Chairman and the Member is contrary to law, that had the performance of the petitioner been unsatisfactory, they ought to have expressed the same in the judgments and since the judgments rendered by the Acting Chairman as well as the Member do not reflect any such callousness on the part of the petitioner, her disengagement is not termination simpliciter and is casting stigma on her career, that the Government has not applied its mind before passing the impugned order and has solely based on the conjoint letter, passed the impugned and is, therefore, offending Articles 14, 16 and 21 of the Constitution of India and violative of Instruction 9 of the Service Instructions, contrary to Advocates Act and is liable to be struck down.

10. In support of his contention, reliance is sought to be placed on a decision *Kumari Shrilekha Vidyarthi and Others Vs. State of U.P. and Others*, wherein when the Government sought to remove en bloc all the District Government Counsel in the State, the Apex Court held that the presence of public element attached to the "office" or "post" of District Government Counsel is sufficient to attract Article 14 of the Constitution of India. It is further observed by Their Lordships that without assigning any cause is not to be equated with without existence of any cause, but it merely means that the reason for which the termination is made need not be assigned or communicated to the appointee. Non-assigning of reasons or the noncommunication thereof may be based on public policy, but termination of an appointment without the existence of any cogent reason in furtherance of the object for which the power is given would be arbitrary and, therefore, against public policy. Therefore, Clause 3 of Para 7.06 of the Legal Remembrancer's Manual, be understood to mean that the appointment of a District Government Counsel is not to be equated with appointment to a post under the Government in the strict sense, which does not necessarily mean that it results in denuding the office of its public character and appointment may be terminated during the currency of the term by only communicating the decision of termination without communicating the reasons which led to the termination. It does not mean that the appointment is at the sweet will of the Government which can be terminated at any time, even without the existence of any cogent reasons during the subsistence of the term. In the case of Public Prosecutors, the additional public element flowing from statutory provisions in the Code of Criminal Procedure, undoubtedly, invest the Public Prosecutors with the attribute of holder of a public office which cannot be whittled down by the assertion that their engagement is purely professional between a client and his lawyer with no public element attaching to it.

11. Reliance is also sought to be placed on yet another decision 2001 (2) AWC 1291 (SC), which deals with termination simpliciter. In this case, the respondent was appointed as General Manager Finance under the A.P. State Federation of Co-operative Spinning Mills Limited, for a period of three years with effect from

6.8.1991. While he was continuing as such, his services were terminated on 10.6.1993. The respondent approached High Court of Andhra Pradesh by way of writ petition under Article 226 of the Constitution and the learned Single Judge dismissed the writ petition at the stage of admission itself, though after hearing the employer. The learned Single Judge came to the conclusion that the order of termination being innocuous, it cannot be held to be penal in nature and the termination of service is in accordance with the contract of service. When writ appeal was preferred to the Division Bench, it came to the conclusion that a writ would lie against Andhra Pradesh State Federation of Co-operative Spinning Mills Limited, that the impugned order, though on the face of it, appears to be innocuous, but if the attendant circumstances leading to the order of termination are examined, more particularly the stand taken in the counter-affidavit, the conclusion is irresistible that the order is penal in nature and since the penalty has been imposed without following any procedure and without affording any opportunity to the delinquent to meet any charges, the said order cannot be sustained. Thus the Andhra Pradesh State Federation of Co-operative Spinning Mills Limited approached the Apex Court, which having regard to the facts and circumstances of the case held that the order of termination of temporary employee or a probationer or even a tenure employee, simpliciter without casting any stigma may not be interfered with by the Court. But the Court is not debarred from looking at the attendant circumstances, namely, the circumstances prior to the issuance of order of termination to find out whether the alleged inefficiency really was the motive for the order of termination or formed the foundation for the same. In that case, on examining the assertions made in the counter-affidavit, it was held that, it was not possible to hold that the appellant employer really terminated the services in accordance with the terms of the employment not by way of imposing penalty in question. In fact, the letter of the Commissioner for Handlooms and Director of Handlooms and Textiles dated 19.5.1993 was the foundation for the employer to terminate the services and as such the Division Bench was justified in holding that the order of termination, though on the face of it was innocuous, was based upon a misconduct.

12. Reliance is also placed on a decision Government of Andhra Pradesh, Law Department and Anr. v. Battaruseti Chenna Kesawarao 1997 (2) ALD 554 wherein a Division Bench of this Court has interfered with the termination of the services of the Government Pleaders and Assistant Government Pleaders in the Districts, when they were terminated en masse on the ground of change of Government in the middle of the tenure, in exercise of the power vested with the Government to terminate by giving one month notice. It is held that when the Government Pleaders are appointed on the basis of their respective merits, irrespective of the change in the Ruling Party, they should be allowed to complete their tenure unless there is a dereliction of duties on the part of the Government Pleaders. The Division Bench in this case, following the decision of the Supreme Court in Kumari Shrilekha Vidyarthi's case held that the en masse replacement

of the Government Pleaders and Assistant Government Pleaders is illegal and arbitrary.

13. The decision *Uptron India Limited Vs. Shammi Bhan and Another*, is relied on by the learned former Advocate General, appearing for the petitioner for the proposition that no employee employed by the Government, or Government Company or Government instrumentality or statutory corporations or any other authority, within the meaning of Article 12, can be terminated abruptly and arbitrarily, either by giving him a month's or three months' notice or pay in lieu thereof or even without notice, notwithstanding that there may be a stipulation to that effect either in the contract of service in the Certified Standing Orders. Evidently, the petitioner herein was neither given notice nor afforded any opportunity to put forth her case.

14. The decision *Sushma Suri Vs. Govt. of National Capital Territory of Delhi and Another*, is relied on for the proposition that the petitioner, after taking up the employment as Government Pleader cannot be termed as an Advocate, but for the purpose of Advocates Act, she will continue to be an Advocate. The Apex Court in order to ascertain meaning of the expression "advocate or a pleader" used in Article 233(2), has referred to the Advocates Act and rules framed thereunder by the Bar Council. According to Section 2(a) of the Act, "Advocate" means Advocate entered in any roll under provisions of the Act. According to Rule 49 of the Bar Council of India Rules, if a person on being enrolled as an Advocate ceases to practice law and takes up an employment, such a person can by no stretch of imagination be termed as an Advocate. For the purpose of the Advocates Act and rules framed thereunder, Law Officer (Public Prosecutor or Government Counsel) will continue to be an Advocate. The intention of the relevant rules is that a candidate eligible for appointment to Higher Judicial Service should be a person who regularly practices before Court or Tribunal appearing for a client.

15. Having regard to the settled position of law, it is contended that the termination of the petitioner solely based on the letter addressed by the Acting Chairman and the Member of the A.P. Administrative Tribunal is arbitrary and there is no complaint from any corner of the Department that she represented as Government Pleader, that all the Departments which she represented before the Tribunal have given appreciation letters for the valuable, integrated and untiring services and, therefore, the action of the Government in disengaging the services of the petitioner, without there being any cause appears to be the result of obsession and being carried away by the letter written by the Acting Chairman and the Member and it tantamount to casting a stigma on the career of the petitioner. Therefore, the impugned order is liable to be set aside.

16. On the other hand, Mr. D. Prakash Reddy, the learned Additional Advocate General appearing for the respondent-Government contended that Instruction No. 5 of the Service Instructions is in consonance with the Instruction No. 9, issued under G.O. Ms. No. 187 Law (L) Department dated 6-12-2000 and the

services of the petitioner were disengaged following Instruction No. 9 and, therefore, it is termination simpliciter casting no stigma, that the relationship between the Government and the Petitioner is not in the nature of Master and Servant and as such the question of giving reasons in disengaging the services of the petitioner does not arise, that the Government just like a private litigant can choose and engage its own Counsel and after disengaging, the Counsel continues to be an Advocate and no disrespect is caused to the petitioner and there are no rules dealing with the services of Government Pleaders or the Law Officers contemplating enquiry. In support of his contention, reliance is placed on a decision *Vilas Rao v. State of Andhra Pradesh*, Rep. by the Secretary to Government, Law (Courts) Department 1993 (1) ALT. 588, wherein a learned Single Judge of this Court while dealing with Clause 5 of G.O. Ms. No. 57 Law dated 16-3-1990, which enables the Government to terminate the engagement of Law Officers by giving one month's notice, held that it is not arbitrary or discriminatory, that the termination of the service of Government Pleader after giving notice but without recording any reason is not violative of Articles 14 and 16 and, therefore, the High Court cannot interfere with the order of termination of services of the Government Pleader.

17. This judgment was delivered by the learned Single Judge having regard to the ratio laid down by the Apex Court in *Kumari Shrilekha Vidyarthi*'s case. The learned Single Judge while admitting that there is considerable element of public employment in the matter of State choosing its Law Officer, held that it cannot, however, forget the fact that the engagement is that of a Counsel by a client. The element of public employment on the one hand and the element of trust and confidence on the other have to be equally balanced and even in the matter of public employment in relation to engagement or appointment of Government Counsel, there shall be some play on either side enabling the client to choose Counsel or to change Counsel as and when occasion arises and also for the Counsel to terminate the engagement with notice. Commenting so, the learned Single Judge held that no member of the profession would (or should) cling on to a file or a client, the moment the client is seen to show the slightest dissatisfaction about Counsel's conduct or the services. Going by the rationale of the work which a Government Pleader has to perform, it is perhaps only proper that the Government have the power given to them to terminate the services without assigning any reason. In view of the ratio laid down in this decision, it is contended that the action of the Government in exercising the powers vested with them, under Clause 5 of the G.O. Ms. No. 57 dated 16.3.1990, and terminating the services of Government Pleader cannot be termed as arbitrary or unreasonable.

18. Learned Additional Advocate General further relied on a decision *R. Sriramulu and Ors. v. Government of Andhra Pradesh and Ors* 1997 (1) ALD 8, wherein a learned Single Judge of this Court considered the removal of Law Officer appointed under G.O. Ms. No. 57 Law, dated 16.3.1990 and held that the appointment can be terminated even before the expiry of the term without

assigning any reason and such a termination is not arbitrary and the order of termination is simpliciter after giving one month's notice, does not cast any stigma.

19. The learned Additional Advocate General submitted that the principle underlying the decision P.V. Swaminathan (supra) relied on by the petitioner is not applicable to the facts and circumstances of the case inasmuch as it pertains to termination of the services of an employee; whereas in the instant case, the petitioner as a Government Counsel was disengaged.

20. Ranbir Singh's case (supra) is relied on by the learned Advocate General in support of his contention that though the petitioner was appointed as Government Pleader, she will continue on the rolls of the Bar Council. It is true that for the purpose of Advocates Act, the petitioner will continue to be an advocate and the intention behind the relevant rules is that a candidate eligible for appointment to Higher Judicial Service should be a person who regularly practices before Court or Tribunal appearing for a client.

21. Shammi Shan's case (supra) is relied on by the learned Advocate-General in support of his contention that the services of the permanent employee, whether employed by the Government, or Government Company or Government instrumentality or statutory corporation or any other authority within the meaning of Article 12, cannot be terminated abruptly and arbitrarily, either by giving him a month's or three months notice or pay in lieu thereof or even without notice, notwithstanding that there may be a stipulation to that effect either in the contract of service Or in the Certified Standing Orders. Permanent employees cannot be terminated from service without affording an opportunity; so also in the case of Law Officers, as per the contract of appointment, based on Condition No. 2(5) of G.O. Ms. No. 1821 Law (L) Department, dated 26.12.2000, the services of the petitioner can be disengaged after complying with Instruction No. 9 of the Service Instructions and, therefore, the question of adhering to the principles of natural justice, as in the case of permanent employees, does not arise, more particularly when there is no Master and Servant relationship between the respondent-Government and petitioner.

22. As stated earlier, based on Instruction Nos. 5 and 9 of the Service Instructions condition No. 2(5) of the appointment order, the services of the petitioner were disengaged. As per the terms and conditions of the contract of appointment, the termination of the services of the petitioner is simpliciter in nature and no stigma is cast and, therefore, the action is not arbitrary or violative of Articles 14 and 16 of the Constitution, as held by both the Apex Court and this Court.

23. There is no dispute with regard to the nature of appointment of the petitioner as Law Officer in terms of the Service Instructions. Instruction No. 9 empowers the Government to disengage the services of a Law Officer and the Law Officer is also empowered to terminate his engagement, as such, giving one month's

notice or pay one month honorarium in lieu thereof. In the present case, this power is exercised by the Government. It is no doubt true that there is no Master and Servant relationship between the Government and the petitioner and the Government is entitled to disengage the services of the Law Officer, even before the expiry of the tenure and when the termination is termination simpliciter, the petitioner has no right to contend that the action of the Government is arbitrary. But the post of Law Officer cannot be equated to a temporary permanent employee whether employed by the Government or Government Company or instrumentality of State falling within the meaning of Article 12 of the Constitution.

24. It is the case of the petitioner that her name was considered and recommended by the learned Advocate General under the linguistic minority. As can be seen from the Service Instructions, there is no rule of reservations provided even in respect of Scheduled Castes, Scheduled Tribes, Backward Classes, etc., as contained in Instruction 7(b), which contemplates that in making the selection, every endeavour shall be made to provide equitable representation to members of the Scheduled Caste, Scheduled Tribe and Backward Classes in accordance with the ratio of 15%, 6% and 25% respectively. I do not know how and under what circumstances, the petitioner contends that her appointment was made under linguistic minority category, in the absence of any material supporting her contention.

25. The assertion of the respondent-Government that the disengagement of the petitioner's services is termination simpliciter in terms of Instruction 5 and 9 of the Service Instructions and in compliance of condition No. 2(5) of the Appointment order, cannot be accepted, in view of the fact that the said termination is preceded by a letter addressed by the Acting Chairman and Member of the A.P. Administrative Tribunal, which was forwarded to the learned Advocate General, who in turn communicated to the petitioner and the petitioner has submitted a detailed reply. Evidently, before passing the impugned order, as can be gathered from the material placed on record, there is no material with the Government with regard to the alleged lapses on the part of the petitioner. For the first time, after receipt of the letter dated 13.6.2002 from the Acting Chairman and Member, the machinery of the Government was set in motion and a detailed explanation was also received from the petitioner along with letters issued by the Departments which she represented as Government Pleader, appreciating her services, integrity, honesty and untiring efforts. It appears the Government was obsessed and carried away by the letter dated 13.6.2002 written by the Acting Chairman and Member, A.P. Administrative Tribunal. The petitioner was not appraised of future course of action which the respondent-Government intended to take and as a bolt from blue, she was served with the impugned order. Therefore, it cannot be held that the order passed by the respondent - Government is termination simpliciter, more particularly when the Departments which she represented have appreciated her services. Admittedly, there is no allegation with regard to her integrity.

The allegation is that there are some lapses on the part of the petitioner. If that is the case, she ought to have been cautioned before passing the impugned order. The Acting Chairman and the Member of the Tribunal have directly resorted to address letter to the Chief Secretary to the Government. If they were not satisfied, they ought to have recorded their dissatisfaction in the Judgment, instead of proceeding like a private person. Therefore, I have no hesitation to come to the conclusion that the impugned order was passed by the Government, though they have not stated in so many unequivocal words, on the basis of the letter addressed by the Acting Chairman Mr. D. Venkata Reddy and the Member Mr. GSRCV Prasad Rao. As held by the Supreme Court, termination of the Law Officers involves public element and attracts Article 14 of the Constitution of India to have judicial scrutiny. That apart, on appointment, as contemplated under Instruction 19, the honorarium to Government Pleaders appointed in High Court of Andhra Pradesh, A.P. Administrative Tribunal, Special Court established under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, etc., etc., shall be paid from the State Exchequer. There are certain restrictions imposed on the Law Officers under the above instructions. One such instruction is under Instruction No. 13 i.e., to relinquish certain assignments such as Standing Counsel for any Statutory Corporation, Local Authority or University or any other Institution, as well as notary. Apparently, this Condition was introduced by the Government with a laudable object to see that no Law Officer holds more than one post so as he can justify to the post and to devote entire time in preparation of the brief and presenting the true version of the Government to come to right conclusion in order to protect the interest of the Government and that with an object of distributing largess of the State among those who are eligible, competent, willing and waiting for their turn to hold the post of Law Officer. I am constrained to note painfully that condition No. 13, in strict sense one man one post, is being followed more by way of breach. This is a sorrowful state of affairs prevailing in the State of Andhra Pradesh, more particularly in High Court. If once the Government has imposed the above said restrictions under Instruction No. 13, it is the bounden duty of the Government to implement the above said restriction in true letter and spirit, in the interest of public, and it cannot capriciously Act according to its sweet will. Therefore, taking the above facts and circumstances into consideration, I am inclined to issue a writ of mandamus directing the first respondent - Government of Andhra Pradesh respondents to implement Condition No. 13 of G.O. Ms. No. 187 Law (L) Department dated 6.12.2000 in true letter and spirit, in its own interest.

26. As contended by the learned Additional Advocate General, it is true that the Government is empowered to terminate the engagement of Law Officers by giving one month's notice and without assigning any reason, but if the termination attracts penal consequences casting a stigma, though Rules are not framed, in such circumstances, as held by the Supreme Court in Kumari Shrilekha Vidyarthi's case (supra), the action of the Government is subject to judicial scrutiny under Article 14 of the Constitution and general principles of

natural justice are applicable. Therefore, the Government ought to have applied principles of natural justice and provided reasonable opportunity to the petitioner before passing the impugned order. Viewed from any angle, I am unable to accede to the contention of the learned Additional Advocate General that the disengagement of the petitioner is termination simpliciter, through the impugned proceedings and it does not call for interference of this Court. As I have already come to the conclusion that the Government has disengaged the services of the petitioner by virtue of the combined letter addressed by the Acting Chairman and Member of the Tribunal, after calling for the explanation by the learned Advocate General, without affording any further opportunity before taking the decision. Therefore, the impugned action of the Government is in violation of principles of natural justice.

27. Though I do not agree with all the contentions raised by the learned Counsel for the petitioner, it is true that the Advocates who are having considerable standing at the Bar and prefer to accept the post of Law Officer after relinquishing their practice against the Government, as a result of which the financial resources also become limited to the extent of the honorarium paid by the Government during the period they hold the post of Law Officer. If all of a sudden, before expiry of the term, in exercise of the powers conferred under Instruction No. 9, if the Government disengages the services of a Law Officer with one month notice or one month honorarium in lieu of notice for any reason, like that of the petitioner herein, the financial position of a Law Officer will be at peril, inasmuch as it is known fact that advocate's profession is long waited one and therefore, it may take a considerable length of time to again settle in practice. This action on the part of the Government may also culminate into sufferings of the dependants of the Law Officer to some extent. The Law Officers, who are appointed, are not given assurance of certain period of term, which will cause prejudice to the Law Officers and Advocates. Therefore, I hold that the Government shall not exercise this power conferred under Instruction No. 9 in an arbitrary manner.

28. It is pertinent to note that at the time of admission of writ petition, this Court granted interim suspension on 26.9.2002, though vacate stay, petition was filed to vacate the said order and it came for consideration on 31.12.2002, the learned Judge who heard the said petition, was not inclined to vacate the order. Consequently, the suspension order is in effect as on today. Therefore, the learned Additional Advocate General, who is an Officer of the Court, should have properly advised the Government to implement the order so as to uphold the majesty of law and dignity of the Courts. Though the Advocate General and the Additional Advocate Generals are appointed by the Government, that does not mean that they should support each and every action of the Government, be it capricious; but they also owe a duty to assist the Court, as Officers of the Court, to come to a just decision. Therefore, in all fairness, the Government should have complied with the orders passed by this Court in continuing the petitioner as Government Pleader, A.P. Administrative Tribunal, subject to the outcome of

this writ petition. Having regard to these facts, this Court was initially inclined to initiate a suo motu contempt for non-implementation of the orders, to uphold majesty of law and dignity of the Courts, but since the writ petition itself is being allowed, suffice it to direct the respondents to pay salary to the petitioner.

29. For all these reasons, the impugned order passed in G.O. Rt. No. 1294 dated 21- 8-2002 is liable to be set aside and is accordingly set aside. The respondents are directed to pay honorarium to the petitioner from 26-9-2002 onwards. The writ petition is ordered accordingly.