

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.36020 of 2015

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DATED : 06.11.2015

Between :

M. Jamuna W/o.Ramanjaneyulu,
Aged about 42 yrs, Occu : Field Assistant,
R/o.Nidanavada Gram Panchayati,
Singanamala Mandal, Anantapuram District.

.. Petitioner

and

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Panchayat Raj Department,
Secretariat Buildings, Hyderabad & 3 others.

.. Respondents

This court made the following :

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ORDER :

The petitioner was working as Field Assistant of Nidanavada Village, Anantapur District. Alleging illegalities in performance of duties as Field Assistant, proceedings were initiated against the petitioner culminating in the order passed by the Project Director, District Water Management Agency, Anantapuram, Anantapuram District (3rd respondent) on 06.08.2015 terminating the services of the petitioner as Field Assistant. Petitioner challenges the said order on various grounds.

2. When the matter is taken up for consideration learned Standing counsel representing the 3rd respondent states that against an order of Project Director, appeal shall lie to the District Collector and petitioner without exhausting the said appeal filed this writ petition, therefore, the writ is not maintainable.

3. As per the circular instructions governing the conditions of services of Field Assistant, right of appeal is provided to the District Collector. Such appeal has to be preferred within one month from the date of receipt of the order passed by the Project Director. However, without availing the remedy of appeal this writ petition is filed on the ground that the original authority has not given reasonable opportunity and orders are passed contrary to the record.

4. A right of appeal, is conferred by circular orders governing his conditions of service, where under petitioner can raise all contentions as urged in this writ petition before the appellate authority. It is always open to avail such remedies as available in law if the appellate authority does not consider the appeal favourably. Thus, when a right to prefer appeal against the decision of disciplinary authority is available to a delinquent employee, without availing the said remedy petitioner cannot directly invoke the jurisdiction of this Court under Article 226 of the Constitution of India. It is not his case that Project Director, is not competent to take disciplinary action.

5. Having regard to the above observations, the writ petition is disposed of leaving it open to the petitioner to avail the remedy of appeal to the District Collector, Anantapuram. Since 30 days time is prescribed for preferring the appeal, in the peculiar facts of this case, the appellate authority is directed to consider appeal of petitioner by condoning the delay in filing appeal and the same shall be considered

on merits, if such appeal is filed within two (2) weeks from the date of receipt of copy of this order. Orders as directed shall be passed within a period of four (4) weeks from the date of receipt of appeal. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

_____ **P.NAVEEN RAO,J**

06th November, 2015

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