

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.5473 OF 2016

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, assails the order issued by the 2nd respondent vide proceedings No: SB/PR-4/14-VSO: VJA, dated 19.07.2014.

2. Heard Sri V.Narasimha Goud, learned counsel, appearing for the petitioner and Sri S.V.Ramana, learned Standing Counsel, appearing for the respondents, apart from perusing the material available before this Court.

3. According to the petitioner, he joined in the service of the respondent Corporation as security guard on 29.10.1986, on regular basis after undergoing due process of selection and later he was promoted as Head RTC Constable in the month of October, 2011. On the ground of unauthorized absence, pursuant to the enquiry conducted by the respondents, petitioner herein was removed from service with effect from 19.07.2014, vide proceedings No: SB/PR-4/14-VSO: VJA, issued by the 2nd respondent. The said order passed by the 2nd respondent is under challenge in the present writ petition.

4. It is contended by learned counsel for the petitioner that the order of removal is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India, besides being contrary to regulations of the respondent Corporation. It is the further submission of the learned counsel that without giving any opportunity to the petitioner, the 2nd respondent passed the impugned order.

5. On the contrary, it is submitted by the learned standing counsel for the respondent Corporation that there is no illegality nor there exists

any infirmity in the order, as such, the present writ petition is not maintainable and the petitioner herein is not entitled for any relief from this Court under Article 226 of the Constitution of India. It is the further submission of the learned standing counsel that in view of the availability of alternative remedy of the appeal to the Appellate Authority, the present writ petition is liable to be dismissed.

6. In the affidavit filed in support of the writ petition, at paragraph No.4, the petitioner herein stated as follows:

"I humbly submit that due to un-avoidable circumstances, I was unable to attend my duties from 18.11.2013. For the same, I intimated the 3rd respondent official that I am not in a position to attend my duties. However, after making my best efforts, my family members, could not come to know that I was suffering from black magic. As such my family members have taken me to various type of treatment being given by the country side. Apart from that I was suffering mental worries being caused due to various financial problems. By the time I report for duty on 01.08.2014, the 3rd respondent officials have instructed that my service was terminated by the 2nd respondent. As such, I approached the 2nd respondent in the 1st week of August, 2014. However, his office has referred me to approach the 3rd respondent depot for collecting the order. Accordingly, I approached it, wherein I am served the impugned order of removal from service in the month of August 2014."

7. Having regard to the nature of controversy and keeping in view the above averments in the affidavit filed in support of the writ petition and taking into consideration the submissions of the learned standing counsel, this Court is of the considered opinion that the ends of justice would be met, if the petitioner is permitted to avail the alternative remedy of appeal before the Appellate Authority.

8. For the aforesaid reasons, Writ Petition is disposed of, permitting the petitioner herein to file appeal against the impugned order of

removal passed by the 2nd respondent vide proceedings No: SB/PR-4/14-VSO: VJA, dated 19.07.2014, within a period of one month from the date of receipt of a copy of this order; and if any such appeal is filed within the time stipulated, the same be considered and appropriate orders be passed, in accordance with law, after giving notice and opportunity of being heard to the petitioner, without reference to the limitation.

9. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

19.02.2016
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