

THE HON'BLE SRI JUSTICE P NAVEEN RAO

WRIT PETITION NO. 11194 OF 2011

Date: 29.09.2016

Between :

Ch.Rahulji S/o Satyanarayana, Aged about 48 years,  
Attender (under termination), Sir C Ramalinga Reddy  
Educational Institutions, MRC Bhavan, GNT Road,  
Eluru, West Godavari District.

.... Petitioner

And

Govt.of Andhra Pradesh rep.by its Commissioner,  
State Board of Technical Education and Training,  
BRKR Building, Hyderabad and others.

.... Respondents



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## ORDER:

Petitioner joined the service of college of 4<sup>th</sup> respondent as attender in the year 1984. On 20.7.2009 he submitted a representation to the second respondent to permit him to grant study leave. Considering the same, study leave was granted for one year. On 26.7.2010 petitioner submitted an application to extend study leave for six months. Not agreeing with the request of the petitioner to grant further time, on 5.8.2010 a memo was issued by the Principal directing the petitioner to report to duty. Instead of reporting to duty, petitioner submitted another representation on 18.8.2010 requesting to reconsider the extension of time of six months. The Principal issued another memo dated 17.9.2010 directing the petitioner to attend to duty. Since petitioner did not attend to duty in spite of issuing memos, paper notification was issued calling upon the petitioner to resume his duties. It appears on 16.12.2010 petitioner issued telegram requesting two more months time to join the duty. Having vexed with the conduct of the petitioner, on 7.1.2011 the services of the petitioner were terminated. The said order of the termination is under challenge in this writ petition.

2. Heard Sri A Rajendra Babu, learned counsel for petitioner, learned Government Pleader for Technical Education for respondents 1 and 2 and Sri P Balaji Varma learned counsel for respondents 3 and 4.

3. Learned counsel for petitioner submitted that the order of termination was not preceded by an enquiry as required, more so, when the termination has civil and evil consequences, without conducting the enquiry, services of the petitioner could not have been dispensed with. Further more, as required by Section 79 (i) of the A.P. Education Act, no

such termination can be made without taking prior consent of the competent authority. In the instant case, no such consent was taken.

4. As against the said contention of the learned counsel for petitioner, learned counsel representing respondents 3 and 4 would submit that the conduct of the petitioner compelled the management to resort to termination. Petitioner showed least inclination to obey the orders of the management in spite of refusal of extension of the leave sought by him and he did not choose to join duty and remained absent. His adamant attitude compelled the management to terminate the services. He would further submit that petitioner has not shown prejudice caused to him and merely prayed statutory violation. No order of termination can be set aside on that ground, unless prejudice is pleaded and proved.

5. Only issue for consideration was whether he has ignored the orders of competent authority and remained absent from duty. No satisfactory explanation is furnished in the affidavit filed by the petitioner in the writ petition to say that he was incapacitated to remain absent from duty and, therefore, his absence was not willful and deliberate.

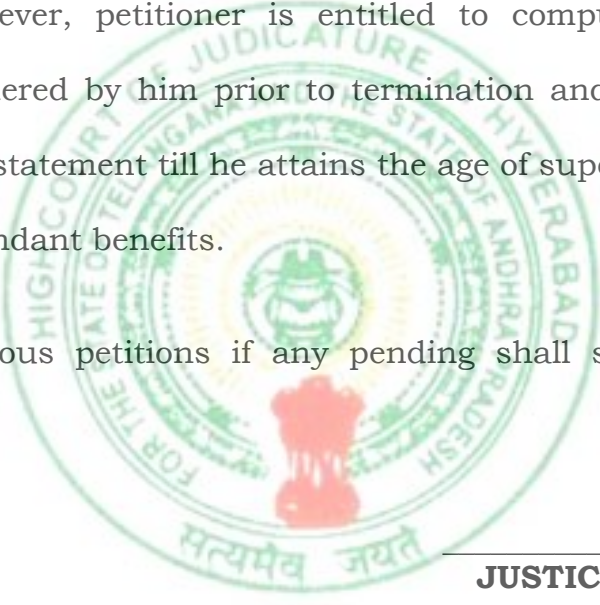
6. Contentions urged by both counsels are formidable and require consideration. However, at this stage, learned counsel for both parties have agreed for resolution of dispute and disposal of the writ petition accordingly. Petitioner is also present in the Court and he has consented for modification of punishment.

7. In view of the consent given by petitioner and learned counsel appearing for respective parties, this writ petition is disposed with following orders:

- a) Respondents 3 and 4 are directed to reinstate the petitioner into service within two weeks from today.

- b) There shall be no further disciplinary action against the petitioner on the said allegation.
- c) Petitioner shall discharge his duties with due diligence and shall not give any scope of further disciplinary action and if petitioner continues to remain absent from duties without just cause or reason, it is open to the respondents to take appropriate action as per law.
- d) As a consequence to reinstatement petitioner is not entitled to back-wages for the period out of employment and this period shall not be counted towards the attendant benefits. However, petitioner is entitled to computation of service rendered by him prior to termination and from the date of reinstatement till he attains the age of superannuation for all attendant benefits.

Miscellaneous petitions if any pending shall stand closed. No costs.



**JUSTICE P.NAVEEN RAO**

Date: 29.9.2016  
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