

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WV.MP.No.745 of 2016

in

W.P.MP.No.4173 of 2016

in/and

W.P.No.3272 of 2016

COMMON ORDER:

1. Petitioner had filed the Writ Petition to call for the records pertaining to proceedings No.W.7/6010/2015 dt.30.01.2016 passed by the 3rd respondent, to declare it as illegal, arbitrary and violative of principles of natural justice, and to set aside the same. Petitioner also sought a consequential direction to reinstate him into service with all consequential benefits.

2. Petitioner was employed as a Field Assistant on 01.04.2006 at Chinna Mulkanoor Gram Panchayat, Chigurumamidi Mandal, Karimnagar District.

3. On 22.12.2015, when the 2nd respondent visited the village, complaints were allegedly made against the petitioner for not providing works to labourers, that he was not accessible to the laborers and his behavior was not proper.

4. On 02.01.2016, the 3rd respondent issued a show cause notice mentioning these three issues and inviting petitioner's explanation thereto within seven days.

5. Petitioner submitted his explanation on 06.01.2016. In the explanation, petitioner stated:

“During the visit of the District Collector, I had come from the work spot to the Gram Panchayat. The District Collector has questioned me under EGS how many labourers are working. I replied that in 14 groups 83 labourers are working. Last week for 14 groups 105 people have issued demand. All the demanded labour were given employment during the last week. District Collector ordered to provide employment to 300 labourers. On this subject, I informed him that from 24.12.2015 to 30.12.2015 from 16 groups I will obtain demand for 300 labourers and take work from them. Villagers have complained against me in the gram sabha. In Chinna Mulkanoor village works were performed every day without any stop.”

6. Thereafter, enquiry was alleged conducted by the 4th respondent into the issues and a report was submitted on 25.01.2016 to the 2nd respondent.

7. The 3rd respondent then passed the impugned order terminating the petitioner's services. Petitioner assailed the same in this Writ Petition.

8. Counsel for the petitioner contends that the charges indicated in the proceedings dt.22.12.2015 are vague, that the explanation given by the petitioner is merely referred to in the impugned order and not at all considered by the 3rd respondent, that he was not given any opportunity to participate in the alleged enquiry conducted by the 4th respondent into the charges either, and thus there is gross violation of principle of natural justice.

9. This Court on 04.02.2016 while admitting the Writ Petition suspended the impugned order in W.P.MP.No.4173 of 2016.

10. W.V.MP.No.745 of 2016 has been filed to vacate the said order.

11. In the counter affidavit/vacate stay petition, firstly, it is contended that the petitioner has a remedy of appeal before the 2nd

respondent and without availing the said remedy, petitioner has approached this Court.

12. Since the contention of the petitioner is that there has been violation of principles of natural justice, I am of the opinion that existence of an alternative remedy is not a bar to the petitioner to approach this Court, (***Whirlpool Corporation v. Registrar of Trade Marks*¹**).

13. In the counter affidavit, it is alleged that complaints were made by the labourers against the petitioner during the course of visit of the 2nd respondent and though the petitioner denied the charges, the 4th respondent conducted an enquiry and submitted a report, on the basis of which, the impugned order has been passed. It is stated that the 3rd respondent had verified the entire record and found the petitioner's explanation is not convincing, and he therefore terminated the services of the petitioner.

14. It is not explained by the respondents as to why the petitioner's explanation was not considered by the 3rd respondent in the impugned order, wherein it was merely referred to.

15. It is also not explained why the 4th respondent while holding survey, did not give an opportunity to petitioner to participate.

16. Also they did not explain why the particulars of the three charges mentioning the specific dates and events are also not mentioned/supplied. Therefore, I hold that the charges are vague.

¹ 1998(8) SCC 1

17. In view of all these infirmities, I am of the opinion that the impugned order terminating the services of the petitioner cannot be sustained and that there has been a gross violation of principles of natural justice in not only not framing charges giving particulars, but also in considering petitioner's explanation and in allowing the petitioner to participate in the enquiry conducted by the 4th respondent before passing the impugned order.

18. Therefore, the Writ Petition is allowed; the order dt.30.01.2016 of the 3rd respondent is set aside; and the respondents are directed to reinstate the petitioner into service forthwith, with all consequential benefits. Consequently, W.V.MP.No.745 of 2016 is dismissed. There shall be no order as to costs.

19. Miscellaneous Petitions pending if any, shall stand closed.

22nd November, 2016.
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M.S. RAMACHANDRA RAO, J