

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

W.P.No.32446 of 2015

ORDER:

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The challenge in the present writ petition is to the action on the part of the respondents in refusing to treat the period of suspension from 24.7.2006 to 2.2.2007 as on "on duty".

2. Heard Sri G.Jonathan, learned counsel for the petitioner and Sri N.Bhupal Reddy, learned Standing Counsel for respondents.

3. When the petitioner was working as Principal of Residential School at Narsingi of Ranga Reddy District, she was placed under suspension by the 2nd respondent vide proc Rc.No.Prl.Estt./15706/2006 dated 22.7.2006 pending enquiry. Subsequently, a charge sheet bearing Rc.No.Prl.Estt.15706/2006 dated 22.10.2006 was issued by the 4th respondent, framing the following three (3) charges:

1. That Smt.Ch.E.Madhu Latha, Principal (U/S), Upgraded School, Narsingi, Ranga Reddy District had failed to maintain health and hygienic conditions in the institution and failed to guide the girl students regarding disposal of sanitary napkins and no care is taken to dispose them off and violated the instructions issued in the Society's Standing Order No.11/97 dated 6.3.97. Hence the charge.

2. That Smt.Ch.E.Madhu Latha, Principal (U/S), Upgraded School, Narsingi, Ranga Reddy District has failed to maintain hygienic conditions, decency and decorum in the management of mess in the institution and violated the Circular No.HND/2554/97 dated 5.3.1997 and Rc.No.G1/8501/2005 dated 27.9.2005. Hence the charge.

3. That Smt.Ch.E.Madhu Latha, Principal (U/S), Upgraded School, Narsingi, Ranga Reddy District is not staying at Headquarters and had been absenting herself without valid permission from the Controlling Authority had absented herself without proper authority and that too when a good number of children had been suffering with "Chickun Gunya fever" in the institution and thereby violated the instructions issued in the Society's Standing Order No.3/2003 dated 19.7.2003. Hence the charge and also the entire HRA amount paid to her since July, 2004 should be recovered from her salary".

4. Pending disciplinary enquiry, the 2nd respondent passed order vide Proc.Rc.No.Prl.Estt./15706/2006 dated 2.2.2007, reinstating the petitioner into service. Thereafter vide proc Rc.No.Prl.Estt./2912/2005 dated 19.4.2007, the 2nd respondent passed an order inflicting on the petitioner the punishment of stoppage of one annual grade increment without cumulative effect under Clause (iv) of Rule 9 of Andhra Pradesh Civil Services (CCA) Rules, 1991, while directing suspension period not to be treated as “on duty”. Aggrieved by the said order passed by the 2nd respondent, the petitioner herein preferred appeal dated 17.7.2007 before the 1st respondent-Board of Governors. The 1st respondent-Board of Governors in its 51st meeting passed a resolution, resolving to reduce the punishment inflicted on the petitioner to that of “warning”.

5. Thereafter, the petitioner herein submitted a representation dated 30.10.2008 to the Respondents, requesting to treat the period of suspension as “on duty”. The 4th respondent vide Memo Rc.No.Prl.Estt/15706/2006 dated 3.12.2008 refused to consider the said request. Thereafter, the petitioner herein approached various authorities and eventually the 4th respondent herein by way of Memo bearing Rc.No.T/Dis/Zone-VI/Prl.Estt/ 15706/2006 dated 8.7.2015 declined to consider the request of the petitioner for treating suspension period from 24.7.2006 to 2.2.2007 as “on duty”. The said action on the part of the respondent authorities in refusing to treat the suspension period as “on duty”, is under challenge in the present writ petition.

6. It is contended by the learned counsel for the petitioner that the questioned action on the part of the respondent authorities is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India. It is further submitted that since the appellate authority modified the punishment inflicted by the primary authority, the impugned rejection cannot be sustained in the eye of law.

7. On the contrary, it is vehemently contended by the learned Standing

Counsel Sri N.Bhupal Reddy that there is neither any illegality nor there exists any infirmity in the impugned action and the respondents are perfectly justified in refusing to consider the request of the petitioner herein. It is also the submission of the learned Standing Counsel that in the absence of any illegality in the impugned action, the present writ petition is liable to be dismissed.

8. In the above backdrop, now the issue that emerges for consideration before this Court is “*whether the petitioner is entitled for any relief from this Court*”.

9. There is absolutely no dispute with regard to the reality that as against the order dated 19.4.2007 passed by the 2nd respondent, the petitioner herein preferred appeal to the 1st respondent-Board of Governors on 17.7.2007 and the 1st respondent passed order vide proc Rc.No.Prl.Estt./ 15706/2006 dated 15.7.2008 . The said order reads as under:

“Smt.CH.E.Madhu Latha, the then Principal, APSWRS/JC, Narsingi, Ranga Reddy district at present working at APSWR School, R.K. Puram, Hyderabad district was awarded with a punishment of stoppage of one annual grade increment without cumulative effect vide reference 1st read above.

Smt.CH.E.Madhu Latha, Principal has submitted an appeal petition against the orders of the punishment of stoppage of one annual grade increment without cumulative effect issued to her to the Chairman/Board of Governors, APSWREIS, Hyderabad for consideration vide reference 2nd read above. The appeal was admitted and placed before the 51st Board of Governors meeting held on 29.4.2008. The Board of Governors examined her appeal in detail and resolved to reduce the punishment of Warning vide reference 3rd read above.

Therefore, the punishment awarded to Smt.CH.E.Madhu Latha, Principal is hereby reduced to Warning. Hence, she is hereby warned to be more careful in discharging her legitimate duties”.

10. A perusal of the above said order passed by the 1st respondent-appellate authority candidly discloses that the 1st respondent-appellate

authority reduced the punishment awarded by the primary authority to that of “warning”. Therefore, for all practical purposes, it has to be concluded that the appellate authority did set aside the order passed by the primary authority. Therefore, this Court does not find any justification on the part of the respondents in declining to treat the period of suspension from 24.7.2006 to 2.2.2007 as “on duty” in the absence of any order of punishment to the said effect.

11. For the aforesaid reasons, the writ petition is allowed, setting aside the order passed by the 4th respondent vide proceedings Rc.No.T/Dis/Zone-VI/Prl.Esst/ 15706/2006 dated 8.7.2015 and consequently, the respondents are directed to treat the period of suspension from 24.7.2006 to 2.2.2007 as “on duty” and it is further declared that the petitioner is entitled for all consequential benefits. Further, the respondents are directed to settle the terminal benefits of the petitioner by including the above said period also. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 18.4.2016
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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