

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**MONDAY, THE TWENTY FIFTH DAY OF JULY,
TWO THOUSAND AND SIXTEEN**

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Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

–
WRIT PETITION No.1256 of 2011

Between:

S. Adinarayana, s/o.Pedda Ramana, aged about 35 years,
R/o. Rebaka Village, Nakkapalli Mandal, Visakhapatnam District.

.. Petitioner

AND

The Project Director, District Water Management Agency,
Visakhapatnam and another.

.. Respondents

The Court made the following:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.1256 of 2011

ORDER

Heard Sri M.K.Vasudeva Rao, learned counsel, representing on behalf of Sri V.V.N.Narayana Rao, learned counsel for the petitioner and learned Government Pleader for Panchayat Raj for respondent No.1 and Sri Ravi Cheemalapati, learned counsel for respondent No.2

2. While the petitioner was working as Village Resource Person (Field Assistant), his services were removed by the orders impugned in the writ petition. Petitioner challenges the said order on several grounds.

3. The principal ground of challenge against the order of removal is that no enquiry was conducted, no charge memo was served on him and he was not afforded opportunity of defending the alleged irregularities which was the cause for his removal. It is his contention that he was not afforded opportunity to establish that what is alleged against him is not true and that a false complaint was generated against him by vested interest only to throw him out of the employment.

4. In the counter affidavit, this contention of the petitioner is

not denied. However, learned Government Pleader submits that the allegations were made against the petitioner of misuse of public funds and based on the said allegations, an enquiry was conducted and in the enquiry, as it was proved that petitioner has misused the public funds, impugned order was passed. Learned Government Pleader also submits that since petitioner was temporarily appointed, there was no need for conducting enquiry and giving opportunity of hearing to the petitioner before passing the orders impugned in the writ petition.

5. The order impugned discloses that based on the complaints received, enquiry was conducted and based on the finding in the enquiry on misuse of funds by the petitioner, impugned order was passed. It is not in dispute that fair opportunity was not afforded to the petitioner before passing the said order. It is not a case of simple order of termination, but made on the ground of alleged irregularities committed by the petitioner. The order is stigmatic and has penal consequences. Any order having penal consequences can be passed only after affording due opportunity of hearing to the aggrieved person.

6. It is not in dispute that the petitioner was appointed, albeit, on temporary basis and has been working. It is not the case of the respondents that petitioner's services are no more required. The services of a Field Assistant are required permanently under the Rural Employment Generation Scheme and therefore, the only reason for termination of services of the petitioner was on account of alleged misconduct. Thus, the order under challenge is not sustainable and is accordingly, set aside.

7. The Writ Petition is, accordingly, allowed, setting aside the order impugned. However, it is made clear that it is open to the

respondents to take disciplinary action against the petitioner by following due process of law. It is also made clear that as the petitioner did not work for the period of termination, he is not entitled to wages for that period. However, all other benefits including computation of said period for any service benefits should be given. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

25th July, 2016

sj