

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

W.P.No.2845 of 2016

ORDER:

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This writ petition filed under Article 226 of the Constitution of India, challenges the order vide proceedings No.A/32/11/0001/2016/SE(H)/ENCHQ dated 25.1.2016 passed by the Chief Engineer (Projects, Housing & Administration, GHMC), Hyderabad-2nd respondent herein.

2. Heard Sri D.Balakishan Rao, learned counsel for the petitioner, Sri P.Kesava Rao, learned counsel for respondents 1 to 3 and Sri V.Venkata Mayur, learned counsel for Respondent No.4, apart from perusing the material available on record.

3. Both the petitioner and 4th respondent are not the born employees of GHMC and they came on deputation from Housing Corporation. By way of G.O.Rt.No.613 dated 23.5.2011, issued by the State Government, petitioner was deputed to Respondent-Corporation and posted as Executive Engineer initially for a period of one year and whereas the 4th respondent came on deputation to the Respondent-Corporation and posted as Deputy Executive Engineer pursuant to the proceedings A1/1468/Deputation/2015 dated 5.6.2015 of the Chief Engineer, A.P. State Housing Corporation Ltd. Now by virtue of impugned order issued by the 2nd respondent dated 25.1.2016, the petitioner herein has been repatriated to the Housing Corporation and the 4th respondent has been kept as Full Additional Charge to the post of Executive Engineer (H), Ranga Reddy Division-I, GHMC in the place of the petitioner. The said order passed by the 2nd respondent is under challenge mainly on two grounds, namely (1) the impugned order, repatriating the petitioner has been passed at the instance of the 4th respondent and only to accommodate the 4th respondent and (2) the impugned order is without jurisdiction.

4. Supporting the impugned action, it is contended by the learned Standing Counsel for the Respondent-Corporation and the learned counsel appearing for 4th respondent that there is absolutely no illegality nor there is any procedural infirmity in the impugned action and there is absolutely no basis for the allegations made by the petitioner. It is further submitted by the learned Standing Counsel for the Respondent-Corporation that in view of the conduct of the petitioner herein, the Corporation has decided not to continue him. It is further contended that allegation of the petitioner that the impugned action has been resorted to at the instance of 4th respondent is without any basis and cannot be sustained.

5. A counter affidavit has been filed by the Respondent-Corporation, denying the averments and allegations made in the writ affidavit and in the direction of justifying the impugned action. The said counter avers various aspects, including the report of superior authorities, touching the discharge of official and statutory functions by the petitioner and the schemes floated by the State Government and the requirement of highly qualified men for effective implementation of the same. The fact remains that the petitioner had come from Housing Corporation and continued in GHMC for more than three years and has no statutory right also, which compels the GHMC to continue him. In the absence of such a right which imposes reciprocal obligation on the Respondent-Corporation to continue the petitioner, the petitioner is not entitled for any indulgence of this Court under Article 226 of the Constitution of India.

6. It is to be noted that initially the State Government vide G.O.Rt.No. 613 dated 23.5.2011 ordered deputation of the petitioner only for one year and the same came to end. There is absolutely no record made available by the petitioner to demonstrate that the said initial period of one year has been extended. Though certain allegations are made against 3rd respondent personally, since 3rd respondent is not made as party, this Court is not inclined to deal with the same.

7. The learned Standing Counsel for the Respondent Corporation has also placed on record the letter bearing No.A/28/0001/SE(H)/GHMC/2016 dated 5.2.2016 addressed by the Commissioner and Special Officer, Hyderabad to the Managing Director, Telangana State Housing Corporation, GHMC, Hyderabad. In the said letter, the Commissioner requested the Managing Director of the Housing Corporation to initiate disciplinary action against the petitioner herein as per service rules. The allegations made against the 4th respondent in the absence of any statutory violation and in view of the averments in the counter affidavit filed by the official respondents pale into insignificance. No rule could be brought to the notice of this Court, which debars the respondents from surrendering the petitioner to his parent organization. In this connection, it may be appropriate to refer to the judgment of the Allahabad High Court in **Shambu Nath Lal Srivastava v. State of U.p. and others**^[1] and at paragraph 4, it was held as under:

“The question of discrimination also does not arise in view of the background motive relating to the petitioner (as brought out in the aforesaid annexures filed with the writ petition itself) which distinguished his case from other. Though the deputation was originally intended to be for a period of three years and was described as such, such description could not in any way take away the power of the lending and borrowing authorities to terminate the deputation at any earlier point of time”.

8. In the judgment of the Delhi High Court in **R.N.Misra v. Delhi Administration and others**^[2], at paragraph 12, it was held as under:

“Shri Kashev Dayal contended that the appointment of the petitioner on deputation to the post of Marketing Officer was for specified period of three years and the said period of deputation could not be reduced or cut short. This contention, in my view, is without substance. The appointment order says that the appointment is for a period of three years. The Government was competent to terminate the appointment on finding that the performance of the petitioner was not satisfactory or that he was not suitable to the post”.

9. The judgment of this Court in **A.Venugopal Rao v. Executive**

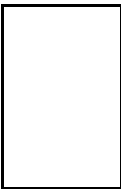
Engineer, Panchayat Raj, Machilipatnam, Krishna district and

others^[3], on which the petitioner places reliance would not render any assistance to the petitioner, in the facts and circumstances of the case, as in the said reported judgment, this Court dealt with the transfer matter, but not the case of deputation. In the absence of any statutory right, the petitioner herein cannot maintain the present writ petition and he is not entitled for any relief from this Court under Article 226 of the Constitution of India.

10. For the aforesaid reasons and having regard to the legal position set out supra, the writ petition is dismissed. It is also made clear that if any amounts are due to the petitioner, the same shall be paid, in accordance with law. 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: 22.3.2016
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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[\[1\]](#) 1984(2) SLR 396
[\[2\]](#) 1985(1) SLR753,
[\[3\]](#) 2002 Suppl.(1) ALD 147 (DB)