

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.28263 OF 2017

ORDER:

This writ petition is filed challenging the proceedings in Rc.No.69/AC(A)/OP3/GHMC/2017-89, dated 25-05-2017, wherein the petitioner has been imposed punishment of removal from service for unauthorized absence with effect from 17-11-2012 to 27-02-2013.

Learned counsel for the petitioner submits that Enquiry Officer was appointed and he submitted report dated 01-05-2015 stating that charges against the petitioner regarding unauthorized absence are not proved. Without considering the same, the petitioner was issued show-cause notice dated 01-06-2015 and the petitioner submitted explanation to the same and the impugned order is passed. Learned counsel for the petitioner says that when disciplinary authority wants to defer the findings of the enquiry officer in his report dated 01-05-2015, show-cause notice dated 01-06-2015 issued to the petitioner should indicate that disciplinary authority wants to defer with the findings of the enquiry officer, but the same is not indicated, which is in violation of principles of natural justice. As such, the impugned order is erroneous and in violation of principles of natural justice.

Heard learned Assistant Government Pleader for Services and Sri P.Keshava Rao, learned Standing Counsel for the respondent-Corporation.

A reading of the enquiry report dated 01-05-2015 shows that charges against the petitioner are not proved against the petitioner. No doubt, show notice dated 01-06-2015 was issued. It does not indicate that disciplinary authority wants to defer the findings of the enquiry officer. As pointed out by the learned counsel for the petitioner that the disciplinary authority issued show-cause notice without indicating his mind that he is deferring with the findings of the enquiry officer report. As such, the impugned order basing on the said show-cause notice does not appear to be correct as pointed out by learned counsel for the petitioner.

In view of the same, the impugned order is set aside. However, this order will not preclude the competent authority from issuing proper notice to the petitioner, if disciplinary authority wants to defer with the findings of the enquiry officer and for taking further action. Since it is stated that the petitioner was reinstated into service on 03-10/11-2014 by revoking the order of suspension, it goes without saying that once the impugned order is set aside, the petitioner is entitled for reinstatement.

Accordingly, the writ petition is allowed to the extent indicated above. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

05-09-2017
Nvl



