

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 36404 of 2016

Date 15.3.2017

Between :

Smt Boddy Ramadevi W/o A Venkatesh
Occu :Special Officer (Terminated)
Talakondapalli village and mandal
Mahaboobnagar district

Petitioner

And

The State of Telangana
Rep by its Secretary,
Women and Child Welfare Department,
Secretariat, Hyderabad and others

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner, learned Government Pleader for Woman Development (TG) for respondents 1 and 2, Sri N Bhupal Reddy for respondent No.3 and Sri Bhaskar Gorla for respondents 4 and 5.

2. Petitioner was appointed as Special Officer and posted in Kasturiba Gandhi Balika vidyalaya (KGBV), Tallakonda Palli, Mahaboobnagar district. By the order impugned, petitioner's services were terminated on the allegation that a girl student died due to negligence of the petitioner and in fact petitioner was found absent on the day when the incident has happened.

3. Petitioner challenges the said order of termination primarily on the ground that the order is not preceded by notice and opportunity and there was no occasion for the petitioner to put-forth her defence, whereas termination is on account of alleged misconduct, therefore it is stigmatic and no such order could have been passed without due notice and opportunity. In the affidavit filed in support of the writ petition, specific contention is raised that such illegal termination is without following the due procedure.

4. When petitioner was appointed, management of the school was with Telangana Tribal Welfare Residential Educational Society and later the administrative control was transferred to Rajiv Vidya Mission (SSA) and now respondents 4 and 5 are authorities under whom this institution is working.

5. A bare perusal of the order impugned would show that the order is not preceded by any notice or opportunity of hearing. The order refers to an alleged enquiry conducted and based on the findings recorded in the said enquiry, the order is passed. Counter affidavit also

elaborately discusses on conducting of such enquiry and passing of the order. However, it does not dispute the allegation of petitioner that there was no prior notice and opportunity to the petitioner before said order of termination of service is made during the subsistence of the contract. It is clear from the reading of the order impugned that allegation of non performance of the duties and responsibilities resulting in death of a student was made. Therefore, it being a stigmatic order, could not have been made without affording due opportunity to the petitioner. Therefore, on this ground the impugned order is liable to be set aside.

6. In the counter affidavit, it is averred that a person by name Mrs.Geeta is appointed as Special Officer and has been working since 12.1.2016 after termination of services of the petitioner. Thus, the post which was earlier occupied by the petitioner is not vacant.

7. Having regard to these facts, while allowing the writ petition, following directions are issued:

- a) Order impugned is set aside and the matter is remitted to the 4th respondent. 4th respondent shall formulate the charges on which earlier orders are passed, furnish all the documents which are relevant and on which reliance is placed by the management, afford due opportunity to submit explanation and also afford opportunity of personal hearing and if necessary by conducting an enquiry, appropriate orders as warranted by law be passed.
- b) Since petitioner was only a contract employee and the position earlier occupied by her is already filled, no direction can be given to put her back and no financial benefit can be directed to be paid for the past period at this stage. Since the impugned order is set aside only on the limited ground of not affording due opportunity before terminating her services, in the event petitioner succeeds in satisfying the competent authority and if competent authority drops the

disciplinary action, petitioner shall be granted benefits to which she is entitled.

- c) However, it is open to the 4th respondent to utilize the services of the petitioner in any other place, if vacancy is available and there is requirement of service of petitioner before initiating and concluding the disciplinary proceedings in terms of the orders of this court.

No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE: 15.3.2017
TVK

P NAVEEN RAO,J



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