

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 29845 OF 2017

ORDER :

This writ petition is filed challenging the proceedings Rc.No.2668/A2/2015-1, dated 16.02.2017 issued by the 1st respondent wherein the petitioner was removed from service on the ground that he has produced fake hearing impaired certificate. Aggrieved by the same, petitioner filed appeal before the 2nd respondent, but the 2nd respondent passed order dated 03.04.2017 directing the 1st respondent to consider the same.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for School Education appearing for respondents.

Learned counsel for the petitioner submits that the petitioner produced disability certificate issued by the competent Medical Board after examining the petitioner, at the first instance, as such, it is not a fake certificate. He submits that even though the petitioner submitted explanation and deposed the same in the enquiry, the 1st respondent has not considered the same and passed impugned order of removal from service dated 16.02.2017. He submits that though the appeal is filed before the 2nd respondent, instead of considering the same, he relegated the

same to the 1st respondent, which is erroneous, as same authority, which has passed impugned order of removal, cannot decide the appeal against his own order and it will be in violation of principles of natural justice.

A perusal of the proceedings in Rc.No.508/Ser-IV-3/2017, dated 03.04.2017 issued by the 2nd respondent goes to show that the appeal filed by the petitioner was sent to the 1st respondent by the 2nd respondent directing him to examine and take necessary action. The 2nd respondent should not have directed the 1st respondent to entertain the appeal against his own order. That is the basic principle of law.

It is pertinent to note that the certificate which is the basis for appointment of the petitioner was communicated by the Medical Board itself to the appointing authority and the authorities have also furnished a copy of the same certificate, when the petitioner sought for under Right to Information Act. The 2nd respondent is obligated to consider above grounds raised by the petitioner by taking into account all the above aspects into consideration.

In view of the same, the impugned proceedings in Rc.No.508/Ser-IV-3/2017, dated 03.04.2017 is set aside and the 2nd respondent is directed to consider the appeal filed by the petitioner, after issuing notice to him and after affording an opportunity of hearing to him. The said exercise shall be

completed within a period of eight weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is allowed to the extent indicated above. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand disposed of.

04-09-2017
kvs

A.RAJASHEKER REDDY,J



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