

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.7223 of 2000

ORDER:

Heard Sri G.Vidyasagar, learned counsel for the petitioners and Sri J.Srinivasa Rao, learned Standing Counsel for respondent Nos.1 and 2-Singareni Collieries Company Limited.

2. The 1st petitioner was employed as Head Master in the Singareni Collieries High School, Bellampalli.

3. A charge memo was issued to him on 15/16-09-1989 by the Chief General Manager (Training and Education) pointing out certain irregularities said to have been committed by him for the years 1985-86, 1986-87 and 1987-88. Petitioner submitted explanation thereto on 23-09-1989. Thereafter an enquiry officer was appointed and on the basis of enquiry report, an order dt.30-09-1998 was passed terminating his services.

4. Petitioner then filed W.P.No.5368 of 1995 questioning the same contending that prior approval of the competent authority under Section 79 of the A.P. Education Act, 1982 (for brevity 'the Act') was not taken.

5. The said Writ Petition was allowed on 07-04-1995 directing the Singareni Collieries Company authorities to make payment till the Regional Joint Director takes a decision in accordance with Section 79 of the Act.

6. Subsequently, petitioner was continued in service but was not paid salary. He then filed W.P.No.20694 of 1997 seeking payment of salary till the competent authority accorded approval. On 24-12-1997, Regional Joint Director granted approval for termination of petitioner's services.

7. On the basis of the same, proceedings dt.30-09-1998 was issued again terminating petitioner's services.

8. Petitioner assailed the same in an appeal under Section 88 of the Act to the Joint Director of School Education, Warangal.

9. On 16-01-2000, the said appeal was rejected.

10. Challenging the proceedings dt.30-09-1998 of the Singareni Collieries Company as well as the Joint Director of School Education, the present Writ Petition is filed.

11. It is the contention of the petitioner that order dt.30-09-1998 passed by the Additional Chief Mining Engineer on behalf of the Chief General Manager (Training and Education) is without jurisdiction.

12. This point was specifically canvassed by the petitioner before the Regional Joint Director. It was specifically contended that petitioner's appointment was made by the Chairman and Managing Director but his services were terminated by the Additional Chief Mining Engineer, who is not the appointing authority. But this

contention was not accepted by the Regional Joint Director stating that Singareni Collieries Company Limited is a Government firm and then may perhaps be authorities having powers at different levels to make appointments, removals etc and though petitioner's appointment was made by the Chairman and Managing Director, the competent authority might have delegated the powers in certain matters to their next official in the cadre.

13. Learned counsel for the petitioner contends that the said orders of the Regional Joint Director is based on assumptions and presumptions and in the absence of any material produced by the respondent to show that there was in fact delegation of powers of Chairman and Managing Director to the Chief General Manager (Training and Education) and by the latter to the Additional Chief Mining Engineer to pass the impugned order, the objection of the petitioner cannot be rejected since it goes to the root of the matter.

14. In the counter affidavit filed on behalf of the respondent Nos.1 and 2, in para-8, it is stated that before the Regional Joint Director, the only contention raised by the petitioner was that the Additional Chief Mining Engineer is not the appropriate authority for passing an order of termination; that whenever an order of termination was sought to be passed, approval of competent authority is always obtained and it is always open to the competent authority to nominate the person under whom the petitioner or any other employee may be

working to pass such termination order and such action is always justified in law.

15. It is stated that the order of termination and proposals to pass order of termination met the approval of the competent authority i.e. Chairman and Managing Director; that he has approved it at the relevant moment of time, that entire Education and Training Department was under control of Additional Chief Mining Engineer and the latter can pass the order of termination; and so, the said officer passed the order of termination.

16. The learned Standing Counsel for respondent Nos.1 and 2 has not been able to produce any material to show that in fact there was any delegation by the Chairman and Managing Director to the Additional Chief Mining Engineer in regard to passing of orders of termination of the services of the petitioner. Therefore, the contention raised in the counter affidavit by the respondent Nos.1 and 2 that there was a approval of the competent authority for terminating the services of the petitioner and also delegation by the said competent authority to the Additional Chief Mining Engineer to pass the impugned order of termination, is not supported by any evidence. Accordingly, the said contention is rejected.

17. Therefore, it has to be held that there was no approval by the competent authority i.e. Chairman and Managing Director for the termination of the services of the petitioner, and there is no delegation

either by the said authority to the Additional Chief Mining Engineer to pass the impugned order of termination. Consequently the Additional Chief Mining Engineer had no jurisdiction to pass the impugned order of terminating the services of the petitioner.

18. The 1st petitioner however died during the pendency of the Writ Petition and his legal representatives are brought on record on 27-11-2012 in W.P.M.P.No.28267 of 2011.

19. In view of my findings that the Additional Chief Mining Engineer/Chief General Manager (Training and Education) had no jurisdiction to pass the impugned order, the said order is set aside; the 1st petitioner is deemed to be in service from that date till the date he would have superannuated from the services; and his legal heirs shall be paid all the benefits including salary increments etc. which he would have drawn till he attained the age of superannuation. This exercise shall be completed within three months from the date of receipt of a copy of this order.

20. Accordingly, the Writ Petition is allowed as above. No costs.

21. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 11-10-2017
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