

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 14378 of 2009

Order:

The petitioner was appointed as Helper in the erstwhile APSEB on 04.04.1970 and the requisite qualification for the post of Helper is to read and write which is applicable to O&M service. However, he produced a Transfer Certificate for the purpose of recording it in the service register and it showed that he passed III Form. He also stated that he appeared for 9th Class examination in April 1990. He was considered for promotion up to the category of Lineman in 1981, but during 1981 one K. Deenabandhu submitted a complaint alleging that he produced a false Transfer Certificate at the time of joining the service. A departmental enquiry was initiated against him and a show cause notice was issued proposing the punishment of "dismissal from service" to the petitioner. Challenging the same, the petitioner filed a writ petition before this Court and obtained stay on 09.03.1992. Later on, the show cause notice was withdrawn and an Enquiry Officer, the Divisional Engineer (Enquiries), APSEB, Vijayawada was appointed as Enquiry Officer on 01.07.1992. When a charge sheet was issued to the petitioner, the petitioner filed W.P.No.1489 of 1995 for quashing the enquiry initiated against him and the said Writ Petition was ultimately disposed of on 03.03.2006. The petitioner was permitted to submit his explanation to the charge memo, in addition to the explanation already filed, within two weeks from the date of the order and the Enquiry Officer was directed to complete the enquiry within four months thereafter. Pursuant to the said direction, the Enquiry Officer submitted a report on 18.06.2008 and the petitioner was reverted from the post of Lineman to the post of Junior Lineman by order dated

25.07.2008. Against the said order the petitioner filed W.P.No.4865 of 2009 and the same is dismissed today in view of the challenge by way of this Writ Petition of the appellate order. The appellate authority passed an order on 22.09.2008 rejecting the appeal preferred by the petitioner. Thereafter, the petitioner retired from service.

Learned counsel for the petitioner submits that the post of Helper does not require any qualifications and the submission of Transfer Certificate indicating that he studied III Form is of no consequence, hence no action should have been taken by the respondents in respect of the Transfer Certificate so produced.

Learned counsel for the respondents submitted that though it is of no consequence, since the production of a bogus certificate itself is misconduct, instead of imposing the punishment of dismissal from service the petitioner was reverted to the post of Junior Lineman and the same cannot be interfered with.

The charge framed against the petitioner is as follows.

“It is reported that Sri Buddaraju Narasimha Raju, Lineman has produced a true copy of Transfer Certificate purported to have been issued by Head Master of Z.P. High School, S. Kota indicating that he has passed VIII class which is reported ingenuine by the District Educational Officer, Vizianagaram after due verification of the old records pertaining to Z.P. Higher Secondary School, S. Kota which is now upgraded as Government Junior College, S. Kota by the concerned. Thus he has committed a grave misconduct under Regulation 6(XXX) of A.P.S.E.B. Employees (Discipline and Appeal) Regulations and Regulation 4 (XXXIX) of the A.P.S.E.B. Employees Revised Conduct Regulations.”

There is no dispute with regard to the facts stated above. The petitioner produced a true copy of Transfer Certificate purported to have been issued by the Head Master, Z.P. High School, S. Kota, indicating that he has passed 8th Class which was later on found to be not a genuine certificate by the District Educational Officer, Vizianagaram after due

verification of the old records pertaining to Z.P. Higher Secondary School, S. Kota which is now upgraded as Government Junior College, S. Kota. The Head Master vide his letter dated 07.06.2008 clarified that the Study Certificate issued by him was not genuine. The Principal of the College also issued a certificate stating that there are no records relating to the petitioner during 1964-65 and hence there is no scope for issuing a Study Certificate by the School. In the letter dated 07.06.2008 addressed to the Divisional Engineer, Engineers Division, APEPDCL, Visakhapatnam, the Head Master, Government High School, Srungavarapu Kota, Vizianagaram district, stated that the petitioner cheated him in obtaining a Study Certificate on 13.02.2007 which was issued on the basis of Xerox copy of Transfer Certificate and his self declaration, when, in fact, there were no records available for the period 1964-65.

The plea taken by the petitioner was that at the time of his joining into service, the appointing authority verified the original Transfer Certificate and true copy of the Transfer Certificate produced by him and after verifying the same the original was returned to him. He also stated that he appeared for 9th class examination at a later point of time which clearly showed that he passed 8th Class examination. He further stated that he did not derive any benefit by producing the Transfer Certificate from the date of his appointment as Helper and hence no action should have been initiated against him. However, an enquiry was conducted, wherein the charge against him was proved. There is no record to show that the finding recorded by the Enquiry Officer was perverse. Further, the petitioner obtained a Study Certificate at a later point of time on 17.02.2007 and stated that his Transfer Certificate was not bogus. But, the circumstances under which the Study Certificate was issued by the

Head Master was explained on 07.06.2008 by him and in his explanation the Head Master stated that he was cheated in procuring the said Study Certificate. Though, a show cause notice was issued to award the punishment of dismissal from service, the petitioner was only reverted from the post of Lineman to the post of Junior Lineman. The said punishment also cannot be called as disproportionate. As seen from the above narration of events, the petitioner successfully stalled the proceedings of enquiry from 1995 to 2006 and continued as Lineman. Only when this Court disposed of the Writ Petition No.1489 of 1995 on 03.03.2006, the enquiry proceeded which resulted in the order of reversion. In the circumstances, this Court sees no grounds to interfere with the order passed by the competent authority on 25.07.2008 and confirming the same by the appellate authority on 22.09.2008.

The Writ Petition is, accordingly, dismissed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 05.07.2017
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