

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION (TR) No.325 OF 2017

DATED : 20.07.2017

Between :

Anoop Kumar S/o.Late Bhagat Singh,
Aged 48 yrs, Occu : Kamatee in GHMC (Under suspension),
R/o.Plot No.56, Korumilli Village,
Narapalli, Uppal Mandal, Ranga Reddy District.
.. Petitioner/Applicant

And

The Principal Secretary,
Department of Municipal Administration,
Government of A.P., Secretariat,
Hyderabad-500 022 & others.

.. Respondents



This court made the following :

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ORDER :

Heard.

2. Petitioner was employed as Kamatee in Greater Hyderabad Municipal Corporation, with effect from 05.02.1983 and later his services were regularized with effect from 17.10.1986. While working in the said capacity petitioner absented from duties from 03.08.2000 and such absence continued upto 02.05.2007. Disciplinary proceedings were initiated on the allegation of long unauthorised absence without any justified cause or reason for such absence. Domestic enquiry was conducted whereunder, the enquiry officer held the charge against the petitioner as proved. Basing on the findings of the enquiry officer, disciplinary authority passed orders on 04.01.2013 removing the petitioner from service. Aggrieved thereby, this writ petition is filed.

3. The basic facts as noted above are not in dispute. In the application filed before the Andhra Pradesh Administrative Tribunal (for short 'the APAT') transferred to this Court, no reasons are assigned by the petitioner for his absence from duty for such a long period. It is not in dispute that petitioner participated in the domestic enquiry and submitted his explanation to the show cause notice. The explanation was considered before removing him from service.

4. A reading of the order impugned in the writ petition would show that petitioner only claimed that he was illiterate and that his

mother expired on 12.09.2002, thereby he got disturbed and was frustrated with life and therefore, remained at home. As noted by the Commissioner in his order, even assuming what is stated by the petitioner is true that his mother expired on 12.09.2002, no sufficient justification is shown as to why he remained absent for almost five years thereafter also. On the one hand, it appears, petitioner claimed that he remained at home and he himself seems to have admitted working in "Mama Dhaba" run by relative/friend for few days in most reluctant and in a disgusted and frustrated manner. Even assuming that mother of the petitioner died, that cannot be a cause or reason for petitioner to remain absent for such a long time, without informing the employer and for applying leave, if so required and warranted.

4. As noted above, there is no procedural irregularity and illegality in taking disciplinary action. Due procedure was followed before imposing the punishment. Furthermore, the only issue for consideration was long unauthorised absence and no valid reason is assigned even in the application filed before the APAT for such long absence. Therefore, I see no error in the decision of the competent authority in removing the petitioner on the ground of long unauthorised absence. Merely because petitioner worked for about 19 years prior to such absence and for about 5 ½ years after the period of absence, would not give justification for validating the long unauthorised absence and the writ petition is liable to be dismissed.

5. At this stage, learned counsel for the petitioner submits that petitioner comes from poor family and instead of imposing the punishment of dismissal, some other punishment ought to have

been imposed to enable the petitioner to draw some benefits out of long service rendered by him prior to his absence and after the period of absence. The factum of working prior to absence and after the absence period cannot be a justification to condone the absence of six years ten months and to grant the relief, as sought to be contended by learned counsel for the petitioner. However, Rule 40 of Telangana Revised Pension Rules, 1980 (for short 'the Rules') enable the competent authority to consider grant of compassionate allowance to employee dismissed/removed from service. Thus, it is open to the petitioner to make a representation to the Commissioner, GHMC, to grant compassionate allowance under Rule 40 of the Rules. As and when such a request is made, the same shall be considered on its merits, not withstanding the dismissal of this writ petition.

6. Subject to the above observations, the writ petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition (TR) shall stand closed.

20th July, 2017
Rds

P.NAVEEN RAO,J