

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No. 30906 OF 2017

DATED 13TH SEPTEMBER, 2017

Between:

Y.Nageswara Rao

... Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary to Government,
Higher Education Department,
A.P. Secretariat, Velagapudi, Guntur District,
Andhra Pradesh, and others

... Respondents

Counsel for the petitioner

:

Smt. K.V.Rajasree

Counsel for the respondents

:

A.G.P. for Services (A.P.)

THE COURT MADE THE FOLLOWING

ORDER: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

Feeling aggrieved by order dated 12-03-2015 in O.A.No. 9647 of 2012 on the file of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal'), the applicant therein filed this Writ Petition.

2. The petitioner at the relevant time was working as Gardener in Government Junior College, Darsi. He absented himself from duties from 13-06-1991 to 12-07-1991 without prior permission. Even subsequently also, he availed leave on medical grounds up to 12-02-1992 in a piecemeal manner. When he approached the Principal of the Junior College on 13-04-1992 to permit him to join duty, the latter refused his request as the petitioner failed to produce medical certificate. The petitioner was accordingly advised by the Principal to submit his joining report along with medical certificate. Instead of submitting medical certificate, the petitioner filed O.A.No. 1679 of 1993 before the Tribunal. By order dated 28-06-1993, the Tribunal directed the petitioner to file medical fitness certificate to produce before the Principal within 15 days from the date of receipt of order. The petitioner however did not avail the opportunity provided by the Tribunal. He has however joined duty on the forenoon of 23-04-1996 and produced medical certificate for the period from 13-06-1991 to 12-04-1992 and fitness certificate from 13-04-1992. The petitioner failed to produce any leave application for the period from 13-04-1992 to 22-04-1996. Due to the unauthorized absence of the petitioner for the aforementioned period, an order was passed by the disciplinary authority on 08-10-2005 treating the period from 13-06-1991 to 22-04-1996 as dies-non. Later on, the Regional Director of Intermediate Education in his proceedings dated 12-12-2005 framed the following charge:

"that Sri Y.Nageswara Rao, Record Assistant, Government Junior College, Peddadornala, has unauthorized and willfully absent from duty from 06-01-2001 onwards disobeying the orders of higher authority to appear before Medical Board."

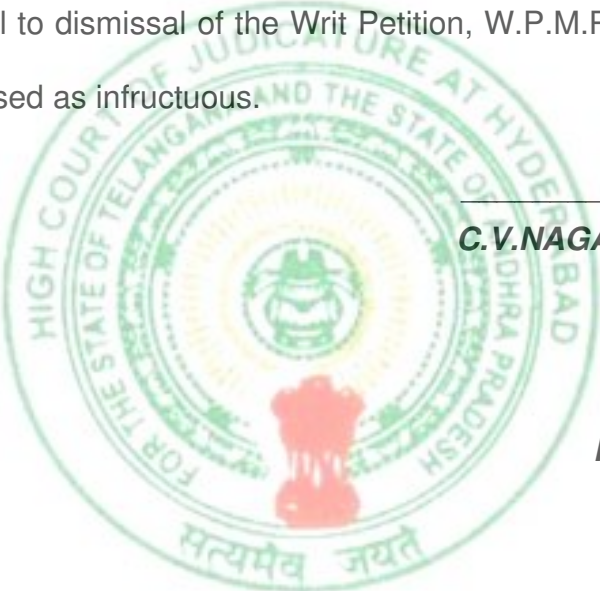
The petitioner submitted his defence statement to the charge memo on 02-11-2006. The District Vocational Education Officer, Guntur, has been appointed as inquiry officer under Rule 20 of the Andhra Pradesh Civil Services (C.C.&A.) Rules, 1991 (for short, '1991 Rules'). After holding inquiry, the inquiry officer submitted his report dated 28-7-2006 to the Regional Joint Director of Intermediate Education, Guntur, holding that the charge of unauthorized absence of the petitioner from 06-11-2001 to 28-07-2006 is proved. The inquiry report was communicated to the petitioner with instructions to submit his representation on the findings of the inquiry officer as required under Rule 21 of 1991 Rules. The petitioner represented on 02-11-2006, stating that he filed O.A. before the Tribunal on 30-10-2006. Instead of submitting his explanation on the findings of the inquiry officer, he requested for issue of reposting order. On consideration of the findings in the inquiry report, which have not been controverted by the petitioner, the Commissioner of Intermediate Education, Andhra Pradesh, issued proceedings vide Rc.No. SER.II-B-2/881/2003 dismissing the petitioner from service. The O.A. filed by the petitioner against the said order having been dismissed, the petitioner filed this Writ Petition.

3. At the hearing, Smt. K.V.Rajasree, learned counsel for the petitioner, submitted that proper inquiry was not held. She is however unable to substantiate this plea. It is not the pleaded case of the petitioner that he was denied the opportunity of participating in the inquiry. The facts referred to above, which are clearly borne out by the order of the Commissioner dismissing the

petitioner from service, remained uncontroverted. The Tribunal on consideration of the entire material on record held and in our view rightly that the petitioner failed to point out any defect in the inquiry or that the punishment of dismissal from service is shockingly disproportionate to the proven misconduct of the petitioner. In these facts and circumstances of the case, we do not find any reason to interfere with the order passed by the disciplinary authority dismissing the petitioner from service and the order of the Tribunal dismissing the O.A.

4. For the aforementioned reasons, the Writ Petition is dismissed.

5. As a sequel to dismissal of the Writ Petition, W.P.M.P.No. 38526 of 2017 shall stand dismissed as infructuous.



C.V.NAGARJUNA REDDY, J.

M.S.K.JAISWAL, J.

Date: 13-09-2017.

JSK