

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.12996 of 2017

ORDER :

Heard the counsel for petitioner, and Sri D.L. Pandu, counsel for 2nd respondent.

2. It is not in dispute that the petitioner has been employed as a daily wage labourer since December, 2000 in the then Andhra Pradesh State Board of Intermediate Education, which is succeeded by the 2nd respondent.

3. However, since February, 2017, the respondents suddenly stopped engaging the petitioner on daily wage basis. Therefore, the petitioner filed the present Writ Petition contending that the only reason that he has been disengaged is to substitute him with another daily wage employee, and that it affects his right to livelihood; and therefore, sought a direction to the 2nd respondent to continue to engage his services in the same category.

4. Counter-affidavit is filed by the 2nd respondent alleging that certain misconduct has been committed by the petitioner, i.e., that he refused to co-operate in the conduct of Press Meet in connection with the Intermediate Public Examinations, 2017 on 25.02.2017.

5. Thus, on a charge of insubordination, it is stated by the respondents that they have not engaged the petitioner.

6. *Prima facie*, such allegation imputing misconduct needs to be proved in a disciplinary proceeding, for otherwise it would be stigmatic and will affect the petitioner's reputation.

7. It is settled law that termination of services of a probationer or a daily wage employee, if it is founded on the ground of misconduct, a disciplinary enquiry is warranted. (**Andhra Pradesh State Federation of Co-operative Spinning Mills Limited v. P.V. Swaminathan¹**)

8. Therefore, the action of respondents in disengaging petitioner's services without conducting any enquiry into the alleged misconduct is arbitrary and violates Article 14 of the Constitution of India.

9. Accordingly, the Writ Petition is allowed and the respondents are directed to reinstate the petitioner into service and pay him wages for the intervening period from the date of his disengagement till the date of his fresh engagement pursuant to this order.

10. However, the 2nd respondent is granted liberty to initiate disciplinary proceedings against the petitioner if he so chooses.

11. Accordingly, the Writ Petition is allowed with the above directions. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 14-06-2017

Ndr/*

¹ (2001) 10 SCC 83