

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2185 of 2010

Date: 28.02.2017

Between:

K.Ravinder S/o Ramaswamy, Aged 41 years,
Occu: Sub Staff, SR No.650349, IT Department,
Divisional Office, Warangal, R/o.2-1-1066,
Laskar Singaram, Hanamkonda, Warangal Dist.

.....Petitioner

and

The Chairman, LIC of India, Central Zone at
Yogakshema Jeeva Bima Marg, P.B.No.19943,
Mumbai and others.

.....Respondents



The Court made the following:

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ORDER:

Petitioner joins service as Sub-Staff on 11.05.1992. Disciplinary proceedings were initiated against him vide charge memo dated 30.03.2005 alleging unauthorized absence for 224 days during the period from 14.01.2004 to 08.02.2005 (intermittently). Petitioner admitted the charge unconditionally. Having regard to the allegation and acceptance of the charge, disciplinary authority passed orders on 09.11.2006 removing the petitioner from service. Appeal preferred by the petitioner was rejected by order dated 18.02.2008. Challenging the said removal, as affirmed by the appellate authority, this writ petition is filed.

2. Heard Sri G.L.Narasimha Rao, learned counsel for petitioner and Sri A.V.S.Ramakrishna, learned standing counsel for respondents.

3. Learned counsel for petitioner contends that due to some personal difficulties in the family, petitioner could not attend the duties. It was not deliberate and willful absence on his part. The absence may be condoned and that if an opportunity is provided to him, he would discharge his duties sincerely and he would not indulge in similar misconduct in future.

4. Learned standing counsel submits that the allegation, which resulted in the impugned order of the removal is not solitary instance. Petitioner was indulging in unauthorized absence on several occasions earlier and on eight occasions, he was visited with punishment on the allegation of unauthorized absence. The

petitioner was indulging in frequent absence from duty, causing lot of inconvenience to the respondents. Therefore, petitioner is not entitled to any relief.

5. As seen from the counter affidavit, within short time of his service, petitioner frequently absented, earlier to the present incident on eight occasions, ranging from 36 days to 97½ days intermittently during various periods mentioned in paragraph-8 of the counter-affidavit and each time, petitioner was visited with punishments ranging from ensure to reduction to minimum scale. In the present disciplinary action, he was absent for 224 days from 14.01.2004 to 08.02.2005 (intermittently). Unauthorized absence for such long period has to be viewed seriously, more particularly in the background that earlier also petitioner remained absent on eight occasions and there was no sincerity on his part to perform his duties sincerely by attending to the duties regularly. Furthermore, as seen from the order of the disciplinary authority, petitioner has unconditionally accepted the allegation made against him. It appears, he did not even ask for leniency in punishment and proper performance of duties in future. It appears from the reading of paragraph-5 of the order, authority was considerate in granting some kind of remedy to the petitioner if only he was expressing his apology and ask for leniency. A vague statement is made about the ill-health of his family members and financial problems. None of these statements supported by the material documents to show that absence from duty was *bona fide*.

6. Having regard to the earlier disciplinary action on eight occasions on the ground of unauthorized absence and the present

unauthorized absence of 224 days, I do not see any error in the disciplinary action against the petitioner. In the facts of this case, it cannot be said that punishment of removal is excessive and disproportionate, warranting interference by this court. Writ petition is liable to be dismissed.

7. At this stage, learned counsel for petitioner submits that petitioner is unable to eke out his livelihood and disparately needs employment and that he would assure the employer that he would not indulge in similar kind of absence and discharge his duties sincerely, if an opportunity is provided to him. If that is so, it is open to the petitioner to make a representation to the disciplinary authority praying to reconsider the punishment imposed and if such representation is made, it is always open to the competent authority to consider the same objectively, notwithstanding dismissal of this writ petition. It appears, an amount of

34,915.85 Ps accrued to the account of the petitioner and the same is not paid so far. Respondents are directed to release the amount to the petitioner with interest, to which he is entitled, in accordance with the provisions of Payment of Gratuity Act. Said amount shall be paid within a period of six weeks from the date of receipt of copy of this order.

8. Writ petition is dismissed accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 28.02.2017
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