

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.39676 of 2017

ORDER:

The petitioner was appointed as Field Assistant in the year 2006 in Champla Thanda Grampanchayat, Habtation Jilakarakunta Thanda, Dameracherla Mandal, Nalgonda District. While so, a social audit was conducted on 17.05.2014 and certain irregularities were noticed in payment of wages. The petitioner was issued charge Memo on 13.06.2014 and he was called for personal hearing on 05.06.2015. Though the petitioner submitted detailed explanation, the fourth respondent passed an order terminating the services of the petitioner on 30.09.2015. The petitioner preferred an appeal to the third respondent. The third respondent passed an order confirming the order passed by the fourth respondent. The present Writ Petition is filed challenging the order, dated 28.08.2017.

2. A perusal of the order passed by the fourth respondent indicates that as many as seven charges were levelled against the petitioner and an order was passed on 30.09.2015 for recovery of Rs.10,621/- and imposing fine of Rs.9,000/-, while removing the petitioner from service. Against the same, the petitioner preferred an appeal to the third respondent and the third respondent passed an order with the following observation:

“The Field Assistant has not furnished any additional evidence than earlier.

The charge wise explanation of FA along with Office remarks are as follows:

“Charge-20: 29 labour paid 93 days wages without signature in muster- Rs.10,281/-.

Explanation: The Field Assistant has stated that the labour has signed on musters- No loss occurred to them. He has submitted written statement of labours duly attested by Sarpanch and PO/MPDO.

Office Findings: The FA failed to produce this evidence before PD earlier. But furnished in appeal now. This shows after thought for the purpose of appeal, and so the genuineness of said statement is doubtful and might have invented by FA.

There is complaint petition filed by villagers against FA stating that he has manipulated the document though the labour is not paid wages.

As such the document filed by FA is not believable and so the charge is proved.

Therefore in accordance with the references 10 to 12 cited the appellate authority do hereby confirm the orders of permanent removal of Sri Saida Chawan, Field Assistant, Champla Thanda, Dameracharla Mandal from contract service may be confirmed besides recovery of Rs.10,281/- along with penalty Rs.9000/- total Rs.19,281/- from him.”

3. Since the third respondent did not consider the evidence produced by the petitioner on the ground that the said evidence was not produced before the fourth respondent, though the third respondent is the appellate authority, this Court is constrained to set aside the impugned order, dated 28.08.2017, passed by the third respondent and remand the matter to him for consideration of appeal of the petitioner afresh, in accordance with law, after perusing the evidence produced by the petitioner and also giving personal hearing to him. The third respondent shall pass appropriate orders, within a period of three months from the date of receipt of a copy of this order.

4. Accordingly, the Writ Petition is allowed setting aside the order, dated 28.08.2017, passed by the third respondent.

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

A.RAMALINGESWARA RAO, J

DECEMBER 04, 2017
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Date: 04.12.2017

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