

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.19048 of 2007

09.08.2018

Between:

D.Rupender Reddy

..Petitioner

and

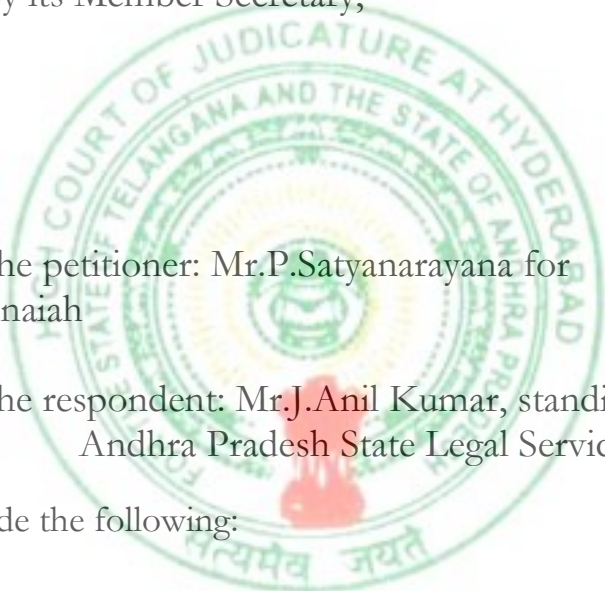
Andhra Pradesh State Legal Services Authority,
represented by its Member Secretary,
Hyderabad

..Respondent

Counsel for the petitioner: Mr.P.Satyanarayana for
Mr.P.V.Krishnaiah

Counsel for the respondent: Mr.J.Anil Kumar, standing counsel for
Andhra Pradesh State Legal Services Authority

The Court made the following:



ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for issue of *mandamus* to set aside proceedings *vide* Order ROC No.APSLSA/AW/5724/06, dated 20.04.2007, of the respondent.

2. We have heard Mr.P.Satyanarayana, learned counsel representing Mr.P.V.Krishnaiah, learned counsel for the petitioner, and Mr.J.Anil Kumar, learned standing counsel for the Andhra Pradesh State Legal Services Authority.

3. The petitioner was appointed as Attender/Office Subordinate on 14.11.2000 in the respondent organization. He absented from duty from 10.05.2006 for one week. Thereafter, on 17.05.2006, he applied for leave up to 27.05.2006 and he did not report to duty after expiry of leave. He, however, submitted another letter, dated 03.05.2006, seeking extension of leave from 28.05.2006 to 08.06.2006. While in his previous letter, the petitioner stated his ill-health as the reason for leave, in his subsequent letter, he mentioned his brother's marriage as the cause for seeking extension of leave. Though the petitioner reported to duty on 09.06.2006, he again absented from duty from 19.06.2006 and submitted leave

application along with medical certificate to the effect that he was suffering from Chikun Gunia.

In reply to the official memo received by him, the petitioner came out with an inconsistent version that he applied for leave on the ground of his brother's marriage and not due to his ill-health. Though he undertook in his reply that he will not absent himself from duty in future, he continued to absent himself from duty for about one year. This prompted the respondent to initiate disciplinary proceedings against the petitioner.

The respondent appointed the District Judge-cum-Secretary, Andhra Pradesh High Court Legal Services Committee as the Enquiry Officer after framing charge. After a detailed enquiry held by the Enquiry Officer, wherein the petitioner was given an opportunity to represent his case, the Enquiry Officer submitted his report on 20.02.2007 holding that the charge against the petitioner has been proved. A copy of the enquiry report along with final show cause notice was furnished to the petitioner on 26.03.2007. The petitioner gave his reply on 20.04.2007, on consideration of which, along with the enquiry report and other material, the respondent has

passed the impugned order imposing the punishment of compulsory retirement with immediate effect under Rule 9 (VIII) of the Andhra Pradesh Civil Services (Classification Control and Appeal) Rules, 1991 read with Rule 17 (1) and Schedule IV of the Andhra Pradesh State Legal Services Authority Service Rules, 1999.

4. The learned counsel for the petitioner has submitted that the explanation/reply offered by the petitioner on 20.04.2007 was not considered by the respondent and that the latter has hurriedly passed the impugned order.

5. On a perusal of the contents of the impugned order, we do not find any merit in the above noted submission. The respondent has considered the stand taken by the petitioner in the enquiry before the Enquiry Officer to the effect that the petitioner in his own hand submitted a letter stating that for the last six months, he had been suffering on account of failure of his health and also that of both his parents and that he had to take both his parents to the hospital and he was the only person to cook food for them, due to which, his health deteriorated. The respondent has observed that in spite of his undertaking given before the Enquiry Officer that he will

not repeat the same mistake in future, the petitioner has not even made an application before the respondent offering to resume his duty. The respondent has also referred to the instance of the petitioner appearing before the former on one day expressing his preparedness to join duty, but his not submitting any written application or making any effort to come to duty.

6. Based on the conduct of the petitioner, both during the pre and post enquiry, the respondent has formed an opinion that the petitioner is totally indifferent towards his duty, that he is not in the habit of applying for leave in advance and that he is habituated to overstay the leave. The respondent has also taken into consideration the mutually contradictory stands of the petitioner and also remarked that the doors of administration cannot be kept open for the employees of the nature of the petitioner to move out and return as per their wish. Taking into consideration, the entire facts and circumstances and having regard to the findings rendered by the Enquiry Officer, the respondent has imposed the punishment of compulsory retirement as a measure of mercy, instead of visiting the petitioner with a harsher penalty of either dismissal or removal from service.

7. In the light of the facts and circumstances discussed above, we do not find any reason to interfere with the impugned order.

8. The Writ Petition is, accordingly, dismissed.

9. As a sequel to dismissal of the writ petition, W.P.M.P.No.24480 of 2007 filed by the petitioner stands dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

09th August, 2018

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