

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.3467 OF 2018

O R D E R

This writ petition is filed challenging the proceedings of the 2nd respondent – Telangana State Consumer Disputes Redressal Commission, Hyderabad in Roc. No.223/2017/TSCDRC/ADMN/Dt. 12.12.2017 wherein and whereby the services of the petitioner were terminated as Junior Stenographer, who was appointed on contract basis.

The case of the petitioner is that he was initially appointed vide proceedings dated 05.06.2012, as Junior Stenographer in the 3rd respondent – Forum, for a period of one year on contract basis and accordingly he joined and the contract period was extended from time to time. Vide proceedings dated 23.06.2017, he was deputed to work at 2nd respondent – Commission and accordingly, after reliving by 3rd respondent on 3.7.2017, joined at 2nd respondent on 4.7.2017 and as he was suffering with ill-health, sent representation dated 12.07.2017 to cancel his deputation and subsequently by representation dated 14.07.2017, sought leave for ten days to undergo surgery and during the period of his hospitalization also, he sent representations for leave. However, in the meanwhile, by proceedings of the 3rd respondent dated 23.08.2017, his services on contract basis, was extended from 1.7.2017 to 30.06.2018. The grievance of the petitioner is that without considering his representations for leave, 2nd respondent, vide proceedings dated 7.9.2017, issued notice and he submitted his explanation on 06.10.2017 along with relevant documents, but without considering the same, by impugned proceedings dated 12.12.2017, his services were terminated. Hence the writ petition.

Learned counsel for the petitioner, reiterating the averments made in the affidavit filed in support of the writ petitioner, submits that the petitioner submitted all relevant documents to show that he was sick and sought for leave, but he was

issued with show cause notice dated 07.09.2017, to which the petitioner submitted his explanations, ventilating his grievance, but without considering the same, 2nd respondent passed the impugned order of termination. Learned counsel further submits that petitioner's contract was renewed by the Government up to 30.06.2018, but his services were terminated based on certain allegations without conducting any inquiry, therefore, the impugned order of termination, is in violation of principles of natural justice. Learned counsel relying on the judgment of a Division Bench judgment of this court in ***B.YOGEE SWARAMMA vs. COLLECTOR, SRIKULAM DISTRICT***¹ contended that terminating the services of the petitioner on certain allegations without regular inquiry, is illegal and unsustainable

On the other hand, learned Government Pleader for Consumer Affairs, submit that petitioner was appointed on contract basis and hence the service rules applicable to the regular employees, for conducting departmental inquiry, cannot be extended to the contract employees. Since the petitioner, who was appointed on contract basis, absented from duties unauthorizedly, without any leave entitlement, he was issued notice and considering his explanation, which was found unsatisfactory, impugned order was passed terminating his services. Therefore, there is no violation of principles of natural justice and hence the writ petition may be dismissed.

The petitioner was appointed on contract basis in the year 2012 and his services were extended from time to time and by proceedings dated 23.06.2017, he was posted in the 2nd respondent and as per his case, as he suffered from ill-health and undergone surgery, he could not attend office and submitted representations along with necessary medical evidence, but without considering his representations, he was issued with notice dated 7.9.2017 and he submitted his explanation along with medical record, and without considering the same, he was terminated by the impugned order. In the impugned order certain

¹ 2017(4) ALD 614

aspersions were made against the petitioner. Before coming to such conclusions, which are in the nature of casting stigma on the petitioner, 2nd respondent ought to have conducted an inquiry. As per the impugned order, it could be seen that the services of the petitioner were extended by the Government from 1.7.2017 to 30.06.2018. Though as per the submissions of both the counsel, there is dispute with regard to petitioner executing the fresh contract, the facts remains that Government extended his services up to 30.06.2018. In view of these facts and circumstances, terminating the services of the petitioner, by casting a stigma, without conducting any inquiry, is in gross violation of principles of natural justice.

A Division Bench of this court in the decision cited supra, considering the case of an Anganwadi worker who was terminated from service with certain allegations and without conduct inquiry, held that the same is illegal and unsustainable. The relevant portion at paragraph No.19 is as under:

“In view of the facts discussed hereinabove, we are of the firm view that there is no dispute that the petitioner was appointed as Anganwadi Worker and subsequently Supervisor Grade-II on contract basis initially for a period of one year w.e.f. 1.4.2012 to 31.3.2013. The condition No.10 of the said contract postulates that the services of the petitioner can be terminated on giving one month notice or pay in lieu thereof and she shall be subjected to disciplinary control. No such one month notice or payment of one month salary in lieu of such notice was paid to the petitioner. The petitioner is covered by Rule 9 of State and Subordinate Service Rules, which the Tribunal relied upon, but the Tribunal having found that the petitioner cannot be regarded as a regular member of service, as she was appointed under the provisions contained in Rule 9(b), ignored the basic principle that the services of the petitioner were terminated without conducting any regular enquiry and ordered for recovery of the amount under Revenue Recovery Act from her on the ground of fraud, misappropriation, which cast stigma on the petitioner, which affect her future prospects of employment and shall suffer a substantial loss of reputation and it may affect her future prospects on account of such an order. The reasons stated by the respondents for terminating her services simply based on the reports of the respondents behind back of the petitioner, without a regular departmental enquiry are illegal and unsustainable.”

In view of the above facts and circumstances and the judgment of the Division Bench, the impugned order is set aside.

However, this order will not preclude the competent authority from taking appropriate action in accordance with law.

Writ petition is accordingly allowed to the extent indicated above.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

A.RAJASHEKER REDDY,J

DATE:03—04—2018

AVS

