

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.12160 OF 2018

O R D E R

As per the averments made in the writ affidavit, the case of the petitioner is that he was appointed as Field Assistant in Dakaravalasa village under Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) by the 5th respondent – Mandal Parishad Development Officer - cum Programme Officer of MGNREGS, vide proceedings dated 11.05.2007. While so, by proceedings dated 19.07.2014, petitioner was charged with not accounting for 20 tents given by Mandal Computer Centre for Distribution in the village. By proceedings dated 24.07.2014, 4th respondent – Project Director, suspended the petitioner pending inquiry and eventually by proceedings dated 12.08.2014, petitioner was removed from services. Petitioner preferred appeal and by proceedings of 3rd respondent – District Collector, dated 14.05.2015 in Rc.No.505/2014/EGS/HR, the appeal filed by the petitioner was allowed he was directed to be reinstated into service. While so, the 3rd respondent issued proceedings in R.C.No.602/2015/EG.S/H.R. dated 19.08.2015, terminating the contract of the petitioner on the ground that he has not reached the target of 75% of labour budget and 5,000 person days for the financial year 2014-15 in view of Circular in Lr.No.1090/EGS (FA)/2015 dated 11.08.2015 issued by 2nd respondent. Aggrieved by the same, petitioner filed W.P.No.28300 of 2015 and by virtue of the interim order passed by this court, he was continued in service and while disposing of the writ petition of the petitioner along with batch of writ petitions, this court, by common order dated 31.12.2015, directed the District collectors in the State of Andhra Pradesh to form a Committee

consisting of three officers in the District, to receive explanations from the Field Assistants for not reaching the target of 75% of labour budget and providing 5000 mandates for the financial year 2014-15 as per Circular in Lr.No.1090/EGS (FA)/2015 dated 11.08.2015 issued by 2nd respondent and pass orders accordingly. Petitioner submitted his explanation and impugned proceeding dated 17.06.2016, has been issued canceling the contract of service for the next financial year. Aggrieved by the same, present writ petition is filed.

Learned counsel appearing for the petitioner reiterating the above averments, further submits that 4th respondent vide proceedings dated 24.07.2014, suspended the petitioner pending inquiry on the charge of misappropriation of tents and eventually by proceedings dated 12.08.2014, he was removed from service. Assailing the same, petitioner filed W.P.No.35446 of 2014 and this court passed interim orders dated 21.11.2014 suspending the operation of order dated 12.08.2014. Appeal filed by the petitioner against order dated 12.08.2014, was allowed by 3rd respondent vide proceedings dated 14.05.2015 and petitioner was reinstated. Subsequently, by proceedings dated 19.08.2015, petitioner was terminated from service for not reaching the target. Petitioner filed writ petition in W.P.NO.28300 of 2015 and this court granted interim order and by virtue of the same, petitioner was continued in service and while disposing of the writ petition, this court directed the District Collector to constitute three men committee and considering the explanations of the petitioners, to pass orders. He stated that as the petitioner was kept under suspension during the period from 24.07.2014 to 14.05.2015, petitioner could not achieve the target of 75 per cent of labour budget and without considering the explanation of the petitioner, present

impugned proceedings were issued. Therefore, he sought to set aside the impugned proceedings.

On the other hand Sri M.S.R.Chandra Murthy, learned counsel for the 2nd respondent submitted that as per the directions of this court in the earlier round of litigation, District Collector, appointed the three men committee and the said committee considering the explanation of the petitioner, submitted report, and considering the same, impugned order dated 17.06.2016, has been passed terminating the service contract of the petitioner and hence no interference is warranted.

From the material on record, it could be seen that the consequent to proceedings of the Programme Officer dated 19.07.2014 leveling charge against the petitioner for not accounting for tents given to the petitioner, 4th respondent by proceedings dated 24.07.2014, suspended the petitioner and after the allowing of the appeal filed by the petitioner on 14.05.2015 vide proceedings of the 3rd respondent in P.C.No.505/2014/EGS/HR, it is stated that he was reinstated on 15.5.2015. So during the period from 24.07.2014 to 14.05.2015, petitioner was not in employment. From the impugned proceedings, it is not clear that whether this period has been excluded while calculating the proportionate target achieved by the petitioner. Therefore, I am of the considered view, that the impugned order requires to be set aside and the matter be remitted back for considering the said aspect.

Accordingly, the impugned order dated 17.06.2016 is set aside and the matter is remitted back to the 3rd respondent to consider the period of suspension pleaded by the petitioner, and taking into consideration proceedings dated 14.05.2015, pass orders afresh in accordance with law.

Writ petition is disposed of accordingly.

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

A.RAJASHEKER REDDY,J

DATE:11—04—2018

AVS

