

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WP No.14494 of 2018

ORDER:

This writ petition is filed assailing the order dated 18-04-2018 passed by the 3rd respondent-Depot Manager, Banswada Depot, in removing the petitioner from service for the alleged misconduct of absconding from duty (control chart duty) when the security staff tried to conduct breath alcohol analyzer test on him, in the presence of mechanical Superintendent of the 3rd respondent-Depot.

2. Learned counsel for the petitioner submits that on the relevant date the petitioner felt giddiness and fell down in the Depot and the Depot Secretary has admitted him in the hospital and the petitioner has not consumed any alcohol while on duty as alleged in the impugned order. It is also stated that no opportunity was given to the petitioner to put forth his case and the preliminary enquiry was conducted behind his back, based on which, imposed a major penalty of removal from service, the same being illegal, arbitrary

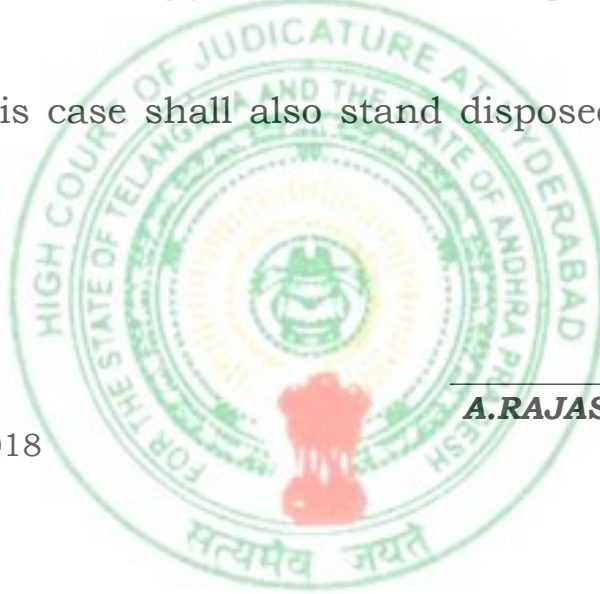
and denied livelihood to the petitioner is violative of Articles 14 and 21 of the Constitution. On the other hand, learned Standing Counsel for the respondent-Corporation submits that in view of the serious allegation that the petitioner consumed alcohol while on duty and he refused to undergo breath analyzer test, the 3rd respondent after conducting preliminary enquiry, passed the impugned order. Learned Standing Counsel also stated that the petitioner has filed statutory appeal against impugned order before the 2nd respondent and the same is pending consideration.

3. It is to be seen that the allegation against the petitioner is that he consumed alcohol while on duty and absconded when the security staff tried to ascertain the same by way of taking breath analyzer in the presence of the mechanical Superintendent of the 3rd respondent-Depot. Be that as it may, inasmuch as the petitioner has already availed the alternative remedy of filing statutory appeal before the 2nd respondent against impugned order, without expressing any

opinion on the merits of the matter, the writ petition is disposed of directing the 2nd respondent to dispose of the statutory appeal filed by the petitioner, in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

4. With the above observations, the writ petition is disposed of accordingly. Miscellaneous petitions if any pending in this case shall also stand disposed of. No order as to costs.

Dated: 24-04-2018
NRG



A.RAJASHEKER REDDY, J

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY



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Date: 24-04-2018

NRG

