

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.17378 of 2001

ORDER:

The petitioner in this writ petition is a driver, worked in the respondent Corporation. On the ground of unauthorized absence from duty, after following due procedure, the respondent Corporation removed the petitioner from service, vide proceedings, dated 20.11.2000. Aggrieved by the same, the petitioner preferred an appeal before the 2nd respondent, and the same was rejected, vide orders dated 28.04.2001, on the ground that the appeal is barred by time. Questioning the same, the present writ petition is filed.

When the matter is taken up for hearing, the learned counsel for the petitioner would contend that the petitioner was not aware of the enquiry proceedings and final order of removal, and he further stated that the petitioner's wife passed away, thereafter he fell sick and could not attend the office. The learned counsel further contended that the petitioner is out of service as of now, that the termination order as well as the impugned orders are *ex parte* orders and hence the petitioner has to be given an opportunity of being heard in the appeal.

The learned counsel for the respondent corporation would contend that the petitioner is well aware of the enquiry proceedings and other proceedings, as he joined duty on receipt of first show cause notice, dated 06.05.2000 and later on, absconded from duty from 12.06.2000 onwards without prior permission or applying any leave.

As seen from the record, the petitioner was not given opportunity before the enquiry officer during the course of enquiry and the enquiry officer submitted an *ex parte* enquiry report. A show cause notice was

issued to the petitioner, but the petitioner could not avail the opportunity of submitting explanation. Hence the 2nd respondent passed termination order on 20.11.2000. After receipt of the termination order, the petitioner preferred appeal. The appellate authority, vide order dated 28.04.2001, rejected the appeal on the ground that the appeal is preferred beyond the period of three months, as stipulated in Regulation 41 of LIC of India (Staff) Regulations, 1960.

Heard both sides and perused the record.

I am of the considered view that though there is a negligible delay of about a month in preferring the appeal, the same was rejected. The petitioner could not be denied an effective remedy of appeal. Therefore, without going into the merits of the case, the impugned order dated 28.04.2001 is set aside. The 2nd respondent-appellate authority is directed to take up the appeal filed by the petitioner, without reference to delay, and pass appropriate orders thereon, in accordance with law, after giving an opportunity of being heard to the petitioner, within a period of 4 (four) months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 20.06.2018
Dsr

M.GANGA RAO,J