

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No. 19956 of 2018

ORDER:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed challenging the order dated 29.12.2017 in O.A.No. 1997 of 2015 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, whereby the application filed by the respondent herein under Section 19 of the Administrative Tribunals Act, 1985, has been allowed.

The respondent, while working as Police Constable in Gudivada II Town Police Station of Krishna District, was discharged from service during his probation by the 1st petitioner - Superintendent of Police, Krishna District, by order dated 03.01.2015 in DO.No.3/ 2015 C.No.4486/ A2/ 2014. Questioning the same, the respondent filed O.A.No.1997 of 2015 before the Tribunal which has been allowed quashing the order dated 03.01.2015 and directing the 1st petitioner to reinstate the respondent into service immediately.

The learned Government Pleader for Services (A.P.) submits that in Rule 17(a)(ii) of the A.P. State and Subordinate Services Rules, 1996 (for brevity "the Rules") the petitioners have power to terminate the services of any probationer based upon unsatisfactory performance or progress during training or unsatisfactory performance of

duties or unsatisfactory conduct or for any other sufficient reason to be recorded in writing.

To substantiate her contention, the learned Government Pleader for Services has relied upon the judgment of the Apex Court in Progressive Education Society & ... v. Rajendra & Anr. decided on 15.02.2008, wherein it is held as under:

“The facts of this case are a little different from the normal cases relating to probation and the termination of the services of a Probationer in that the satisfaction required to be arrived at under sub-Section(3) of Section 5 of the MEPS Act has to be read along with Rule 15 of the MEPS Rules, 1981 with particular reference to sub-Rule(6) which provides that the performance of an employee appointed on probation is to be objectively assessed by the Head during the period of his probation and a record of such assessment is to be maintained. If the two provisions are read together, it would mean that before taking recourse to the powers vested under sub-Section (3) of Section 5 of the MEPS Act, the performance of an employee appointed on probation would have to be taken into consideration by the School Management before terminating his services.”

The learned Government Pleader submits that in view of the aforesaid judgment, if we record any reason for discharging the respondent from service that would be a stigma to the respondent, therefore, the order passed by the 1st petitioner was proper, however it was not considered by the Tribunal and quashed the same, as such, she prays to allow the writ petition by setting aside the order of the Tribunal.

A perusal of Rule 17 of the Rules discloses that reasons have to be recorded for unsatisfactory performance or progress during training or unsatisfactory performance of duties or unsatisfactory conduct or for any other sufficient reason. In the order dated 03.01.2015 impugned in O.A.No. 1997 of 2015, reasons as per Rule 17 of the Rules are not recorded that the respondent's performance or conduct is unsatisfactory.

In view of the above, we find no perversity or illegality in the impugned order dated 29.12.2017 passed by the Tribunal.

Hence, the writ petition is devoid of merit and the same is accordingly dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

18.06.2018

ABHINAND KUMAR SHAVILI, J

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