

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.21474 OF 2018

Dated:10.07.2018

Between:

K. Bala Krishna, S/o. Ramulu,
Age 25 years, Ex. Home Guard No.1932
of Rachakonda Commissionerate,
R/o. Yadgarpally Village, Keesara Mandal,
Medchal (Ranga Reddy) District

.. Petitioner

And

The Commissioner of Police, Rachakonda,
L.B. Nagar, Hyderabad and others

.. Respondents



The Court made the following:

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ORDER:

Heard.

2. Petitioner was appointed as Home Guard. Consequent to his selection and appointment, having joined service on 26.06.2015, petitioner was served with show cause notice dated 10.10.2015 alleging that he was involved in Crime No.285 of 2015 registered in Keesara Police Station alleging committing of theft of complainant's bag containing Rs.5,000/- punishable under Sections 420 and 379 of I.P.C. Petitioner submitted his explanation dated 06.11.2017 denying the allegation. Petitioner stated that in the criminal case, he was discharged on 12.12.2015. A fresh show cause notice was issued on 30.11.2017. Thereafter, the order of termination from service, dated 20.03.2018, impugned in this Writ Petition, is passed. The order of termination refers to the report of Home Guards Disciplinary Committee and the report and holds that the tainted Home Guard failed to discharge his legitimate duty, exhibited gross negligence and dereliction of his duties.

3. The original file leading to passing of the order impugned in this Writ Petition is produced.

4. Based on the record, learned Assistant Government Pleader appearing for Home would submit that earlier, petitioner was given show cause notices for appearance and personal hearing. In response to the show cause notice dated 23.08.2017, petitioner

appeared and was heard, whereas in response to the second show cause notice, dated 30.11.2017, for further personal hearing, he did not appear. However, on 14.12.2017, petitioner submitted reply stating that the show cause notice dated 30.11.2017 was not served on him, as he was not staying in the same address.

5. On perusal of the record, it is seen that there is no discussion on the explanation offered by the petitioner. It is appropriate to note that the charge levelled against the petitioner is involvement in a criminal case and there is no further allegation against him. Petitioner stated in his explanation that the criminal case was closed and he was discharged of the charge levelled against him. There is no discussion on the nature of discharge granted by the Lok Adalat and the nature of allegation levelled against the petitioner. The committee sticks to the allegation levelled against the petitioner i.e., his involvement in a criminal case. There is no independent enquiry conducted on the nature of crime and involvement of petitioner. Report of the disciplinary committee is bald. Except referring to the report of Home Guards Disciplinary Committee, there is no discussion in the order to terminate the service of the petitioner as Home Guard.

6. Having regard to the above discussion, the order of termination is not sustainable and accordingly the same is set aside. However, it is open to the competent authority to initiate disciplinary action on any allegation other than the allegation of involvement in criminal case levelled against the petitioner resulting in passing the order impugned in the Writ Petition.

7. The Writ Petition is accordingly allowed. There shall be no order as to costs.

Miscellaneous Petitions, if any, filed in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:10.07.2018

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