

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.4280 OF 2001

ORDER:

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with the order dated 9.1.2001 passed by the 1st respondent in S.A.No.3 of 2000 confirming the order of the 2nd respondent dated 31.1.2000, and to quash the same.

2. Heard Sri O. Manohar Reddy, learned Counsel for the petitioner and the learned Government Pleader for Labour, and Sri R.V. Subba Rao, learned Counsel for the 3rd respondent.

3. It has been submitted by the petitioner that the 3rd respondent was appointed as Woman Officer vide resolution dated 12.4.1997, and thereafter, another resolution was passed on 23.6.1998 for continuing her services and subsequently, on 30.12.1998 another resolution was passed to appoint the 3rd respondent on contract basis, but the said resolution was not given effect to. Further, it has been submitted that though a resolution was passed on 19.1.1999 resolving to remove the 3rd respondent from the post of Woman Officer, the same was not communicated to the 3rd respondent, and the 3rd respondent was never terminated, but the 3rd respondent on apprehension filed W.P.No.863 of 1999

before this Court challenging the resolution dated 19.1.1999 and subsequently, the 3rd respondent withdrew the said writ petition and therefore, the said writ petition was dismissed as withdrawn, and thereafter, the 3rd respondent preferred an appeal before the 1st appellate authority under A.P. Shops and Establishments Act, and the said appellate authority passed order allowing the petition filed by the 3rd respondent on 31.1.2000 and directed the petitioner herein to reinstate the 3rd respondent as Woman Development Officer, with all benefits such as continuity of service and backwages. It has been submitted that challenging the order passed by the first appellate authority, the petitioner preferred appeal viz., SA No.3 of 2000 before the 2nd appellate authority, and the said appeal was rejected on 9.1.2001 confirming the order passed by the first appellate authority, and aggrieved by the same, the present petition has been filed.

4. The learned Counsel for the petitioner contends that the resolution passed on 19.1.1999 removing the 3rd respondent was not communicated to the 3rd respondent, and any order, which was not communicated to the party, is nonest in the eye of law, and therefore, the question of removal does not arise, and that the 3rd respondent on her own volition has been abstaining from duties and she has turned around and filed false cases against the petitioner before the authorities under Shops and Establishments

Act. He further contends that the post held by the 3rd respondent is not a perennial post and it is a sanctioned post under District Rural Development Agency Scheme. On these grounds, the learned Counsel for the petitioner prays to dismiss this writ petition.

5. The learned Counsel appearing for the 3rd respondent contends that the petitioner passed removal order without conducting any detailed enquiry and without assigning any reasons, and therefore, the authorities under Shops and Establishments Act have rightly interfered with the order of removal and passed orders in favour of the 3rd respondent.

6. I have considered the submissions made by the parties and perused the material available on record. The contention of the petitioner that he has not issued any removal order and the 3rd respondent on her own volition has abstained from duties, cannot be believed for the simple reason that the petitioner has challenged the order of reinstatement passed by the first appellate authority by filing an appeal before the 2nd appellate authority, and later on, filed this writ petition challenging the order of reinstatement. If it is the contention of the petitioner that he has not issued any removal order, there should not be any resistance to reinstate the 3rd respondent into service. Therefore, the contention of the petitioner that he has not issued the order of removal cannot be accepted.

This writ petition is devoid of merits and the same is liable to be dismissed.

7. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

(ABHINAND KUMAR SHAVILI, J)

Dated: 22nd June, 2018
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22.6.2018

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