

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WV.MP.No.1772 of 2017

in

WP.MP.No.681 of 2017

in/and

WRIT PETITION No.616 of 2017

COMMON ORDER:

Petitioner in this Writ Petition has assailed the order dt.21.04.2016 passed by the 4th respondent removing the petitioner from the post of Field Assistant at Namavaram Gram Panchayat, Payakaraopeta Mandal, Visakhapatnam District by canceling the contract of service of the petitioner.

2. Petitioner was appointed as a Field Assistant under Mahatma Gandhi National Rural Employment Guarantee Scheme at the said place by 5th respondent on 27.12.2008.

3. On 18.08.2015, the 4th respondent issued proceedings terminating the petitioner's service on the ground that he did not reach the target of 75% of labour budget and 5000 person days for financial year 2014-15.

4. Petitioner assailed the same in W.P.No.28992 of 2015.

5. Initially, interim order was granted in favour of the petitioner and petitioner was continued in the said post.

6. Thereafter, the said Writ Petition was disposed of on 31.12.2015 along with W.P.No.27468 of 2015 and batch and a direction was given therein to all the District Collectors in

the State of Andhra Pradesh to form a Committee consisting of Three Officers in the District to receive the explanations from the Field Assistants, such as petitioner, giving reasons for not reaching the prescribed targets.

7. Thereafter, the Three Officers Committee was constituted even with regard to Visakhapatnam District by the District Collector.

8. Petitioner was asked to appear before the said Committee on 02.02.2016 in the Office of the Revenue Divisional Officer, Narsipatnam. Petitioner accordingly appeared and gave a detailed explanation setting out reasons why he could not meet the prescribed targets.

8. The Three Officers Committee recorded the contentions of the petitioner and stated that petitioner's case cannot be treated as a border line case for recommendation for continuation, without assigning any reasons why the petitioner's explanation, for not reaching the targets prescribed, was liable to be rejected.

9. This recommendation of the Three Officers Committee was forwarded to the 4th respondent, who relied on it and passed the impugned order on 21.04.2016. In the said order, the 4th respondent simply recorded that the petitioner did not submit valid reasons before the Three Officers

Committee for his failure to achieve the target given to him for 2014-15.

10. Assailing the same, this Writ Petition was filed.

11. On 05.01.2017 in WP.MP.No.681 of 2017 in W.P.No.616 of 2017 this Court granted interim order suspending the operation of the impugned proceedings issued by 4th respondent and directed the respondents to reinstate the petitioner into service in the post of Field Assistant on the ground that the 4th respondent did not consider the explanation of the petitioner and acted in violation of principles of natural justice.

12. WV.MP.No.1772 of 2017 is filed by the respondents to vacate the said order.

13. Sri M.S.R.Chandra Murthy, Standing Counsel appearing for respondents sought to contend that the impugned order does not suffer from any defect, that the explanation offered by the petitioner was found to be not satisfactory, that was why the Three Officers Committee recommended rejection of the case of the petitioner to the 4th respondent, and the 4th respondent then passed the impugned order. He, however, does not dispute the fact that the Three Officers Committee after recording the explanation of the petitioner, gave no reason why the explanation given by the petitioner was not satisfactory.

14. Thus, it is clear that the Three Officers Committee did not apply its mind to the cause shown by the petitioner for not being able to achieve the prescribed target. Therefore, any such recommendation given by the Three Officers Committee could not have been blindly acted upon by the 4th respondent.

15. It was incumbent on the part of the 4th respondent at least to look into the explanation of the petitioner and give satisfactory reasons, why such explanation of the petitioner is not liable to be accepted.

16. In this view of the matter, the impugned order passed by the 4th respondent cannot be sustained.

17. Accordingly, the Writ Petition is allowed; the impugned order dt.21.04.2016 passed by the 4th respondent is set aside; and the 4th respondent is directed to consider the explanation of the petitioner himself and pass a fresh reasoned order and communicate the same to the petitioner within a period of two (02) months from the date of receipt of a copy of this order. For the period between the date of termination of the service of the petitioner (i.e.) 18.8.2015 and till a final order is passed by the 4th respondent again, the respondents shall pay remuneration to the petitioner of the post Field Assistant, which the petitioner would have been entitled had his

contract of service not been terminated. Consequently, the WV.MP.No.1772 of 2017 is dismissed. No order as to costs.

18. Miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

26th September, 2018.
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