

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.33409 OF 2018

Dated:20.09.2018

Between:

J. Srinivas @ Srinivasulu, S/o. Bhadraiah,
Aged about 39 years, Occ: Technical Assistant
(under termination), (O/o. Mandal Development
Parishad Officer), Native R/o. Nidmanoor Village
And Mandal, Nalgonda District .. Petitioner

And

The State of Telangana, rep., by its
Principal Secretary, Pnachyat Raj
And Rural Development Department,
Secretariat, Hyderabad and others .. Respondents



The Court made the following:

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ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Panchayat Raj appearing for respondents 1 and 5 and Ms. R. Padma Rekha, learned Standing Counsel appearing for respondents 2 to 4.

2. The Writ Petition is filed challenging the order of termination from service dated 25.06.2018 on the ground of misconduct.

3. Learned counsel for the petitioner pointed out several infirmities in conducting disciplinary proceedings. He submits that as directed by the Division Bench in W.A.No.570 of 2018, petitioner requested to examine the Members of the Committee, but his request was not acceded to. In addition, petitioner intended to examine three witnesses on his behalf, but this was also not allowed.

4. Having regard to the serious infirmities pointed out by learned counsel for the petitioner, learned Standing Counsel fairly submits that the order impugned can be set aside and the matter be remitted to the stage of enquiry officer to deal with the objections filed by the petitioner with reference to supply of documents/verification of documents, which were not provided by the enquiry officer.

5. As seen from the order of the Division Bench of this Court in W.A.No.570 of 2018, dated 06.04.2018, the Division Bench observed that though basis for initiating disciplinary action against

the petitioner was preliminary report of Three Men Committee, but the Members of the Committee were not even permitted to be cross examined by the petitioner and this itself is sufficient to vitiate proceedings against the petitioner.

6. During the course of enquiry, petitioner requested calling of Quality Control Officer, but the enquiry officer refused to call him stating that he need not be called as a witness and if petitioner has any doubt, he should seek clarification from the officer.

7. Having regard to the observations made by the Division Bench of this Court in W.A.No.570 of 2018, the decision of the enquiry officer in refusing to call the Quality Control Officer, as a witness, is erroneous and would vitiate further action taken against petitioner.

8. Therefore, the order impugned is set aside and the matter is remitted to the stage of conducting enquiry afresh.

9. The disciplinary authority is directed to instruct the enquiry officer to call the Members of the Three Men Committee, who submitted the preliminary report, which was the basis for initiating disciplinary action. Petitioner shall furnish the names of three witnesses whom he intended to examine on his behalf to the enquiry officer through the disciplinary authority within one week from the date of receipt of a copy of the order. As soon as the list is received by disciplinary authority, the same shall be forwarded to the enquiry officer. After recording evidence by the enquiry officer, he shall submit a fresh report and based on the fresh report, further action shall be taken by the disciplinary authority

within a period of two weeks. From the material on record, it is clear that there are several rounds of litigation on this issue and the issue is being dragged on for long time. In spite of the observations made by the Division Bench of this Court, proper procedure is not followed. Therefore, the disciplinary authority is directed to ensure that there is full compliance of the procedural formalities required to be followed and due assessment of the objections raised by the petitioner before passing an order. The entire exercise shall be completed as expeditiously as possible preferably within a period of two months from the date of receipt of a copy of the order. For any reason, which is not attributable to the petitioner, if proceedings are not concluded and appropriate orders are not passed by following the due procedure within the time fixed above, petitioner shall be reinstated into service.

10. The Writ Petition is accordingly allowed. Pending miscellaneous petitions shall stand closed.

Date:20.09.2018

KH

P. NAVEEN RAO, J