

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.37299 OF 2018

ORDER:

1. With the consent of both the Counsel, this writ petition is being disposed of at the admission stage.

2. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the 2nd respondent in initiating and continuing the disciplinary proceedings against the petitioner pursuant to Memo dated 16.7.2018 by indicating penalty even before submission of explanation to the charge memo and overlooking the fact that no orders are issued by the 5th respondent relieving the petitioner, as arbitrary and illegal, and consequently, to set aside the same in the interest of justice.

3. Heard Sri V. Ravichandran, learned Counsel for the petitioner and Smt.K. Aruna, learned Standing Counsel for respondents Nos.1 to 3.

4. It is the case of the petitioner that she is an employee of APGENCO and she was sent on deputation to work with the 4th respondent-Corporation vide proceedings dated 13.6.2012. She was sent on deputation initially for a period of one year and later on, the said tenure was extended from time to time. The last such extension of tenure is on 13.6.2017 and by virtue of

the said orders, the petitioner is continuing with the 4th respondent. While so, the 1st respondent is insisting that the petitioner should report back to her parent department. The 1st respondent also issued proceedings dated 5.11.2014 and 16.3.2015, but the petitioner did not respond to the same and in those circumstances, the 1st respondent initiated disciplinary proceedings against the petitioner and challenging the same, the present writ petition is filed.

5. Learned Counsel for the petitioner submits that until and unless the 4th respondent relieves the petitioner, she cannot go and report to duty in the 1st respondent, and therefore, the petitioner has denied the charge leveled against her in the form of explanation to the charge, but the same was not taken into account, and straightaway, the 1st respondent appointed the enquiry officer to enquire into the charges. He further contended that the petitioner has submitted a representation on 10.10.2018 to the 4th respondent requesting to relieve her, but the 4th respondent has yet to act on the said representation.

6. The learned Standing Counsel for respondents Nos.1 to 3 contended that initially the petitioner was sent on deputation only a period of one year and the said period was extended thereafter by one more year, and thereafter, there was no extension and in spite of the same, the petitioner has not reported back to the parent unit, and the said conduct of the

petitioner amounts to misconduct and therefore, the 1st respondent rightly initiated disciplinary proceedings by issuing charge sheet on 16.7.2018, and the petitioner also submitted her explanation, and appropriate orders will be passed after completion of the enquiry.

7. Having considered the above submissions made by the parties, this Court is of the view that this writ petition can be disposed of directing the 4th respondent to consider the representation of the petitioner dated 10.10.2018 and relieve her so as to enable her to go and join duty in her parent unit i.e., 1st respondent.

8. Accordingly, the Writ Petition is disposed of directing the 4th respondent to consider the representation of the petitioner dated 10.10.2018 and relieve her so as to enable her to go and join duty in her parent unit i.e., 1st respondent, within a period of two weeks from the date of receipt of a copy of this order. Upon such reporting to duty before the 1st respondent, the 1st respondent will reconsider the entire case of the petitioner and pass appropriate orders in another four weeks thereafter in accordance with law, either to drop the disciplinary proceedings or to continue them. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 11th October, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.37299 OF 2018



11/10/2018

Nn.