

**HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE M.GANGA RAO**

WRIT PETITION No. 3858 OF 2014

ORDER: *(Per Hon'ble Sri Justice Sanjay Kumar)*

Heard the learned Government Pleader for Services-I and Sri Thota Ramakoteswara Rao, learned counsel for the first respondent/applicant.

2 The Andhra Pradesh Administrative Tribunal, Hyderabad, allowed O.A.No.9237 of 2012 by its order dated 04.12.2012, directing the respondents therein to reinstate the applicant as a Home Guard within a timeframe, setting aside the order of removal passed against him on 23.09.2009. Aggrieved thereby, the respondents in the said O.A. are before this Court.

3. By order dated 12.02.2014, this Court granted interim suspension of the order under challenge. WVMP No.288 of 2017 was filed by the first respondent/applicant to vacate the said order.

4. As comprehensive arguments were advanced by both sides, the matter is amenable to disposal at this stage.

5. The Tribunal granted relief to the first respondent/applicant on the strength of a decision of this

Court in ***State of Andhra Pradesh Vs. P.Prasad Rao***¹. By way of the said judgment, this Court held that in terms of Rule 7(4) of the Madras Home Guards Rules, 1949 (as applicable in the State of A.P.), a reasonable opportunity of hearing needs to be afforded to a Home Guard before he is subjected to disciplinary action. The Tribunal took note of the fact that no show-cause notice was served on the first respondent/applicant before removal of his name from the rolls of Home Guards and accordingly granted him relief.

6. However, we find that show-cause notice dated 23.05.2009 was issued by the Additional Superintendent of Police, Ongole, to the first respondent/applicant in relation to his unauthorized absence from duty since 24.02.2009. Pursuant thereto, the first respondent/applicant seems to have submitted his explanation stating that while returning from his native place on 24.02.2009, he met with an accident and was admitted in the hospital. He accordingly prayed for reinduction into service.

7. Acting thereupon, the authorities concerned seem to have directed the petitioner to report for duty on 06.06.2009. However, the Reserve Sub-Inspector, Home Guards Organization, Prakasam District, brought it to the notice of the Superintendent of Police, by his communication dated

¹ 2012(1) ALD 76 (DB)

20.07.2009, that the first respondent/applicant failed to report for duty even after 06.06.2009 and absconded without intimation. It was owing to this further act on the part of the first respondent/applicant that he was removed from the rolls of Home Guards by the later order dated 23.09.2009 passed by the Superintendent of Police, Prakasam District.

8. In these circumstances, it cannot be said that no reasonable opportunity was given to the first respondent/applicant. Having prayed for being allowed to join duty by way of his earlier explanation, the first respondent/applicant chose to ignore the order of the authorities directing him to report for duty on 06.06.2009. The first respondent/applicant was therefore given a show-cause notice earlier but despite the opportunity given to him thereafter, he failed to take advantage of the same. We are of the opinion that there is no violation of Rule 7(4) of the Rules applicable to Home Guards.

9. The order passed by the Tribunal in O.A.No.9237 of 2012 is accordingly set aside and the writ petition is allowed. It is however made clear that the earlier removal of the first respondent/applicant from the rolls of Home Guards shall not be taken into account in the event he applies for appointment afresh if and when vacancies in the post of Home Guard are notified.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

M.GANGA RAO, J

Date: 03.04.2018
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WRIT PETITION No. 3858 OF 2014

3rd day of April, 2018

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