

***IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

*** HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN**

AND

HON'BLE MS. JUSTICE J. UMADEVI

+ Writ Petition No.37955 of 2017

% 29-8-2018

Between:

Allada Venkata Ramakrishna,
S/o Venkateswara Rao, H.No.8-1-144/1,
Golla Bazar, Bhadrachalam

... Petitioner

Vs.

The Registrar (Administration), Higher Court
At Hyderabad, and 3 others

... Respondents

! Counsel for the Petitioner : Mr. P. Rama Sharana Sharma,

^ Counsel for Respondents : Mrs. V. Umadevi, standing counsel
For the High Court

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> Head Note:

? Cases referred:

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.37955 of 2017

ORDER: *(per V. Ramasubramanian, J)*

Aggrieved by the termination of the services of a person employed through out-sourcing agency, he has come up with the above writ petition.

2. Heard Mr. P. Rama Sharana Sharma, learned counsel for the petitioner and Smt. V. Uma Devi, learned standing counsel appearing for respondents 1 to 3.

3. The petitioner was appointed through an Outsourcing agency, as Process Server by the proceedings dated 01-06-2009, initially for a period of three years, which was extended from time to time.

4. With effect from 19-07-2016, the out sourcing agency sent him to work in the Court of I Additional Junior Civil Judge's Court, Kothagudem. Normally, every employee is obliged to stay in the Head Quarters, where his services are required. But it appears that the petitioner stayed in Bhadrachalam and commuted therefrom to the place of his posting every day.

5. It appears that the petitioner was issued with three memos one on 08-08-2017, another on 18-09-2017 and third on 20-10-2017. All the three memos alleged either absence or leaving the office before the close of working hours.

6. Subsequently, a memo dated 28-10-2017 was issued terminating his services. It is against the said order that the petitioner has come up with the above writ petition.

7. The main ground of attack to the impugned order of termination is that after giving an indication in the impugned order itself about the allegation of dereliction of duties and misconduct and after having issued three memos on certain allegations, the respondents cannot use the weapon of termination simplicitor and that therefore, the impugned order is liable to be set aside.

8. But at the out set, it should be pointed out that there was no employer or employee relationship between the judicial establishment and the petitioner. The District Judicial Administration entered into a contract with the 4th respondent herein, which is a society registered under the Societies Registration Act, for the supply of man power. The petitioner is one of the persons supplied by the 4th respondent agency. It is the 4th respondent who is the master of the petitioner herein. By the order impugned in the writ petition, the relationship of master and servant between the petitioner and the 4th respondent is not severed. Therefore, the petitioner cannot maintain any grievance against the respondents 1 to 3.

9. In fact, notice was issued to the 4th respondent in this writ petition. The 4th respondent has not chosen to enter appearance. However, the 4th respondent sent a letter dated 8-12-2017

addressed to the 1st respondent herein. The contents of the letter read as follows:

"I humbly and respectfully submit the following for favour of kind information as desired.

1) That, Sri A.V. Ramakrishna, applicant was originally appointed by the District Collector through Kinnera Mahila Samakya, Khammam, working at Hon'ble Judicial 1st Class Magistrate Court, Bhadrachalam under the sole administrative control of the Hon'ble Prl. District & Sessions Judge, Khammam.

2) Later on his services are attached to our Agency along with others for payment of their monthly remuneration under program of Outsourcing Services.

3) That, the Hon'ble Principal District & Sessions Judge, Khammam has passed orders through Proc. Orders Dis.No.6542/ADM/DCK, dated 28-10-2017 for termination of his services with effect from 31-10-2017 A.N.

This is for favour of kind information."

10. Therefore, it is clear that there is no bar for the 4th respondent to engage the services of the petitioner in any other establishment. The impugned order though worded as termination of services, should be treated only as the surrender of one of the employees sent by the out sourcing agency, back to the agency, so that they can replace the said person. If viewed from that angle, the impugned order cannot be said to be stigmatic or visiting the petitioner with civil consequences.

11. The contention of the learned counsel for the petitioner that the three memos issued on 08-08-2017, 18-09-2017 and 20-10-2017 shows that the respondents wanted to proceed against the petitioner for certain acts of misconduct and that therefore, they cannot abandon the action half-way through and pass an order of termination simplicitor, cannot be accepted for one simple reason. All the three memos indicate that the institution to which the 4th

respondent sent the petitioner was not happy with the work performed by him. Unsatisfactory work, need not necessarily be taken to be an act of misconduct. Therefore, we are unable to countenance the submission that the impugned order is stigmatic.

12. In the affidavit in support of the writ petition, the petitioner has made certain allegations against the Judicial Officer. But whenever such allegations are made, it is necessary to implead the officer by name, if the impugned order had to be tested on the ground of malafides. However, the petitioner has not impleaded the officer holding the post at that time as a respondent. Therefore, it is not possible for us to go into the allegations made against the incumbent.

In view of the above, we find no grounds to interfere with the impugned order. Hence, the writ petition is dismissed. However, the 4th respondent may engage the services of the petitioner in any other institution with whom they hold a similar contract for the supply of man power. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 29-8-2018

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