

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.43840 of 2017

ORDER:

Heard learned counsel for the petitioner and learned Standing Counsel for respondents 1 and 2.

2. The petitioner joined the first respondent organisation on 23.05.2005 as Junior Office Assistant and his services were regularized. He worked in various stations and now he is working in Gannavaram Airport since September, 2014, as Senior Supervisor. The first respondent organization outsourced certain jobs to respondents 3 and 4. While so, the petitioner was kept under suspension by proceedings dated 22.01.2016 and a charge sheet was issued to him on 17.05.2016 levelling certain allegations. The petitioner states that he is no way concerned with the said allegations and he submitted his explanation on 04.06.2016 denying the charges. The first respondent wanted to conduct departmental proceedings and accordingly, appointed the second respondent as Enquiry Officer. Now, the evidence on behalf of the management was completed and when the case was posted for evidence of the petitioner on 04.12.2017, the petitioner did not appear and he sought for the following information before proceeding with his evidence:

- “1. Cash Register for the period September, October, November, 2015.
2. Log Entry Books period September, October, November, 2015.
3. Ticket Itineraries period September, October, November, 2015.
4. Boarding Passes period September, October, November, 2015.”

3. He also sought for adjournment of the case by his communication dated 01.12.2017, but he was set *ex parte* on

04.12.2017 and the second respondent issued proceedings on 08.12.2017 stating as follows:

“In the past I have given you almost twenty one chances to adjourn/postpone the enquiry which includes four times ex-parte enquiry mainly due to your absence/request. Three times the ex-parte of the enquiry was revoked based on your request. On 04.12.2017, the Enquiry Officer and the Presenting Officer were waiting till 1700 hrs in the enquiry venue. Neither you came to the enquiry venue nor any information received from you for not attending the enquiry on 04.12.2017.

You have to make your own arrangements to bring any witnesses, exhibits, evidences etc., to defend your case. You should write to the respective Competent Authorities for such things. This was reiterated and recorded in almost all the proceedings. Enquiry Officer cannot arrange witnesses, evidences, exhibits etc., for both Presenting Officer and you. As already stated since you failed to attend the enquiry on the appointed date, time and venue and did not inform me for not attending the enquiry, the enquiry held on 04.12.2017 was held ex-parte. It cannot be revoked. I sought the final submission from the Presenting Officer. Once I receive the final submission of the Presenting Officer, the same will be sent to you for your final submission.”

4. Now, the present writ petition is filed challenging the action of the second respondent in conducting enquiry by violating the principles of natural justice.

5. Learned counsel appearing for respondents 1 and 2 submitted that number of opportunities were given to the petitioner and when his turn of evidence came, he submitted a letter seeking some information in order to protract the enquiry.

6. Learned counsel for the petitioner submits that the required information is available with respondents 3 and 4 and the first

respondent is preventing respondents 3 and 4 from furnishing the required information.

7. Be that as it may, it is for the petitioner to seek the required information and file appropriate application in that regard, in accordance with law, before respondents 1 and 2. This Court cannot regulate conduct of proceedings at this stage. The second respondent should not have set the petitioner *ex parte* for his non appearance on 04.12.2017.

8. In the circumstances, this Writ Petition is disposed of by setting aside the proceedings dated 04.12.2017, setting the petitioner *ex parte*. Liberty is given to the petitioner to take appropriate proceedings including seeking of information by proper procedure before respondents 1 and 2 and it is for respondents 1 and 2 to regulate the proceedings and furnish the required information. It is needless to observe that the petitioner is entitled to take all available pleas permitted under law in the pending departmental proceedings. The second respondent shall not act in haste and pass orders without considering the plea of the petitioner. The petitioner is given one week time from the date of receipt of a copy of this order for making appropriate application before the first respondent and if the first respondent is in possession of the said information, he shall furnish the same, within one week thereafter. If the petitioner seeks information from respondents 3 and 4, he can obtain information through the process known to law. In view of the above order, the proceedings before 2nd respondent shall stand adjourned by three weeks and he

shall communicate the next date of hearing to the petitioner accordingly.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

JANUARY 03, 2018

Note:

Furnish C.C. in two days.

(B/o)
YVL



THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO



WRIT PETITION No.43840 of 2017

Date: 03.01.2018

YVL