

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.5745 OF 2019

ORDER

This writ petition is filed seeking the following relief:

“...to issue appropriate writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of respondents passed impugned order in File.No. CTE-EST2/SMSL/10/2019/ESTABLISHMENT-2-CTE dated 02-03-2019 terminating the service of the petitioner is illegal, unlawful, unjust and contrary to law and against the principles of natural justice and consequently to direct the respondent Nos.2 and 4 to reinstate the petitioner into service forthwith and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri Dharavath Ravi, learned counsel appearing for the petitioner and learned Government Pleader for Services-I appearing for the respondents.

It is the case of the petitioner that she was appointed as Lecturer on contract basis *vide* proceedings dated 30.10.2008 and she is discharging her duties as such. While so, the respondents have transferred her in the middle of the academic year from Medak to Nizamabad. Challenging the said transfer order, she filed W.P.No.40173 of 2018. This Court by order dated 21.12.2018 in I.A.No.1 of 2018, suspended the said transfer order. In spite of the same, the respondents have not continued the petitioner at Medak. Hence, she filed

contempt case. Then the respondents have continued the petitioner at Medak from 17.01.2019 and accordingly, she is discharging her duties at Medak. Since the petitioner has challenged the transfer order, the 4th respondent bore grudge against her, and has given a complaint to the 2nd respondent alleging that the petitioner had misbehaved with him. Pursuant to the same, the 2nd respondent had initiated disciplinary proceedings levelling charges against the petitioner. Though the petitioner sought time to file her explanation, the respondents have appointed an enquiry officer and conducted the enquiry *ex parte*. In the report, the enquiry officer stated that the charges levelled against the petitioner were proved. Thereafter, the 2nd respondent had furnished the enquiry officer's report to the petitioner on 14.02.2019 so as to enable her to file objections. The petitioner has submitted objections in the form of a representation to the 2nd respondent on 19-02-2019. Thereafter, the 2nd respondent has passed the impugned termination order on 02.03.2019, wherein it was stated that the petitioner has not submitted any explanation to the enquiry officer's report.

Learned counsel appearing for the petitioner submits that in the impugned termination order, the 2nd respondent stated that the petitioner has not submitted any explanation,

which is totally false and incorrect; that the petitioner has submitted her explanation to the 2nd respondent on 19.02.2019; that the impugned termination order is arbitrary, illegal and is passed without application of mind; and that appropriate orders be passed by setting aside the impugned termination order.

Learned Government Pleader appearing for the respondents contends that every opportunity was given to the petitioner to participate in the enquiry, but the petitioner has not participated in the enquiry; that left with no other option, the respondents have conducted the enquiry *ex parte* against the petitioner; that the petitioner cannot turn around and contend that the impugned termination order was passed without following the principles of natural justice; that contract appointment of the petitioner was valid upto 30th April, 2019 and hence, the question of reinstating her after expiry of the term is not feasible and even on this count also, the writ petition is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that after receipt of the explanation from the petitioner the impugned termination order was passed on 02.03.2019. The 2nd respondent ought to have considered the explanation

submitted by the petitioner. Without considering the explanation submitted by the petitioner, the 2nd respondent has passed the impugned order. Therefore, the impugned termination order is liable to be set aside.

Accordingly, the impugned termination order is set aside and the Writ Petition is allowed. The 2nd respondent is directed to re-consider the matter and pass orders afresh by duly taking into consideration the explanation submitted by the petitioner on 19.02.2019 within a period of four weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

21st June, 2019
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