

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.7784 OF 2018 & W.P(TR)No.3129 OF 2017

COMMON ORDER

Since the issue involved in both the writ petitions is one and the same, they are being disposed of by this common order.

The petitioners in both the writ petitions were appointed as Home Guards and they are discharging their duties to the utmost satisfaction of their superiors. While so, the respondents have removed the petitioners on the premise that they have unauthorizedly absented to their duties.

Learned counsel appearing for the petitioners submits that without conducting any enquiry, the respondents have removed the petitioners from service contrary to Rule 7 (4) of the Madras Home Guards Rules, 1949 (for short 'the Rules'); that similar issue fell for consideration before Division Bench of this Court in W.P.No.35460 of 2013 and batch preferred by the State against the orders of the Andhra Pradesh Administrative Tribunal, whereunder the Tribunal has set aside the orders of removal of the petitioners therein on the ground that the disciplinary authority had not followed Rule 7 (4) of the Rules; that while dismissing the batch of writ petitions on 8.6.2018, the Division Bench directed the writ

petitioners therein to reinstate all the Home Guards by conducting physical test; that appropriate orders be passed by setting aside the impugned removal orders and reinstate the petitioners herein into service in terms of the common order dated 8.6.2018 passed by Division Bench of this Court in W.P.No.35460 of 2013 and batch.

Learned Government Pleader appearing for the respondents does not dispute the same, however, contends that liberty may be given to the respondents to initiate disciplinary action against the petitioners in accordance with the Rules.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that since the impugned removal orders were passed without conducting any enquiry as contemplated under Rule 7(4) of the Rules and without giving any opportunity to the petitioners, the same are liable to be set aside in terms of the common order dated 8.6.2018 passed by Division Bench of this Court in W.P.No.35460 of 2013 and batch.

Accordingly, the Writ Petitions are allowed and the impugned removal orders are set aside. The respondents are directed to reinstate the petitioners as Home Guards. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

28th February, 2019
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