

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.23115 OF 2017

ORDER:

The petitioner in this writ petition was appointed as Home Guard and he has been discharging his duties to the utmost satisfaction of his superiors. While so, the respondents have removed the petitioner from service on the premise that he has unauthorizedly absented to his duties.

Learned counsel appearing for the petitioner submits that without conducting any enquiry, the respondents have removed the petitioner 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 petitioner 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 order is passed without conducting any enquiry as contemplated under Rule 7(4) of the Rules and without giving any opportunity to the petitioner, the same is 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, this Writ Petition is allowed and the impugned removal order is set aside. The respondents are directed to reinstate the petitioner as Home Guard subject to his medial fitness. However, the petitioner is not entitled to any benefit of continuity of service, seniority and arrears of pay by virtue of the orders passed by this Court in W.P.No.35460 of 2013 & batch dated 08.06.2018. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

31.07.2019
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