

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.40988 OF 2018

ORDER

This writ petition is filed seeking the following relief:

“....to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus by setting aside the impugned termination order No.1382/Esst /TSACS/2014-8, dated 20-06-2018 passed by the Project Director, Telangana State AIDS Control Society, DM&HS Campus, Hyderabad by holding the same as arbitrary, illegal, unconstitutional and violative of Article 311(2) of the Constitution of India and consequently direct the respondents herein to reinstate the petitioner herein with all attendant financial and other service benefits and pass such other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case.”

Heard Sri P.R.Bharath Kumar, learned counsel appearing for the petitioner and learned Government Pleader for Services-II appearing for the respondents.

It is the case of the petitioner that he was appointed as a ICTC Counsellor during August, 2007 and since then he has been discharging his duties to the satisfaction of his superiors. Thereafter, he was absorbed into the then AP State AIDS Control Society, Hyderabad, on 01.11.2010. While so, one N.Narender had lodged a complaint before the Lokayukta alleging that the petitioner has secured employment by

submitting bogus educational certificates. The Lokayukta had directed the respondents to enquire into the matter and take necessary action. Accordingly, the District Malaria Officer was entrusted to conduct enquiry. Based upon the report submitted by the District Malaria Officer, the respondents have issued a show cause notice to the petitioner and thereafter, *vide* impugned order dated 20-06-2018 terminated him from services alleging that he had submitted fake certificates at the time of his employment. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that without giving any opportunity to the petitioner, the respondents have straight away terminated his services by the impugned termination order; that since the impugned termination order is stigmatic, the respondents are bound to conduct enquiry and reasonable opportunity should be given to the petitioner to prove his case; that in the instant case, no such enquiry was conducted and no opportunity was given to the petitioner before passing the impugned stigmatic order; that appropriate orders be passed by setting aside the impugned termination order and the writ petition is liable to be allowed.

Learned Government Pleader appearing for the respondents submits that the District Malaria Officer was instructed to conduct enquiry and after conducting enquiry, the District Malaria Officer submitted his report and based upon the report, the respondents have rightly terminated the services of the petitioner as he submitted fake educational certificates.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that while terminating the services of the petitioner, the respondents are bound to follow the principles of natural justice. The respondents ought to have conducted enquiry in the presence of the petitioner and after giving reasonable opportunity, initiate disciplinary action against him. In the instant case, the respondents have not conducted any enquiry before passing the impugned termination order. Further, the Apex Court in *D.K.Yadav vs J.M.A Industries Ltd*¹ held that whenever any stigmatic order is passed, opportunity should be given to the person against whom action is to be initiated.

For the foregoing reasons and in view of the law laid down by the Supreme Court in *D.K.Yadav*'s case (supra), the impugned termination order is liable to be set aside.

¹ 1993(3) SCC 259

Accordingly, the Writ Petition is allowed and the impugned termination order is set aside with all consequential benefits. However, liberty is given to the respondents to proceed against the petitioner after affording an opportunity to him and after following principles of natural justice. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

23rd April, 2019
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JUSTICE ABHINAND KUMAR SHAVILI



