

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 2590 of 2020

Date : 10.2.2020

Between:

N Amelia W/o Manik Prabhu
Aged about 58 years R/o Plot No 141 Christian Colony
Vanasthalipuram Hyderabad

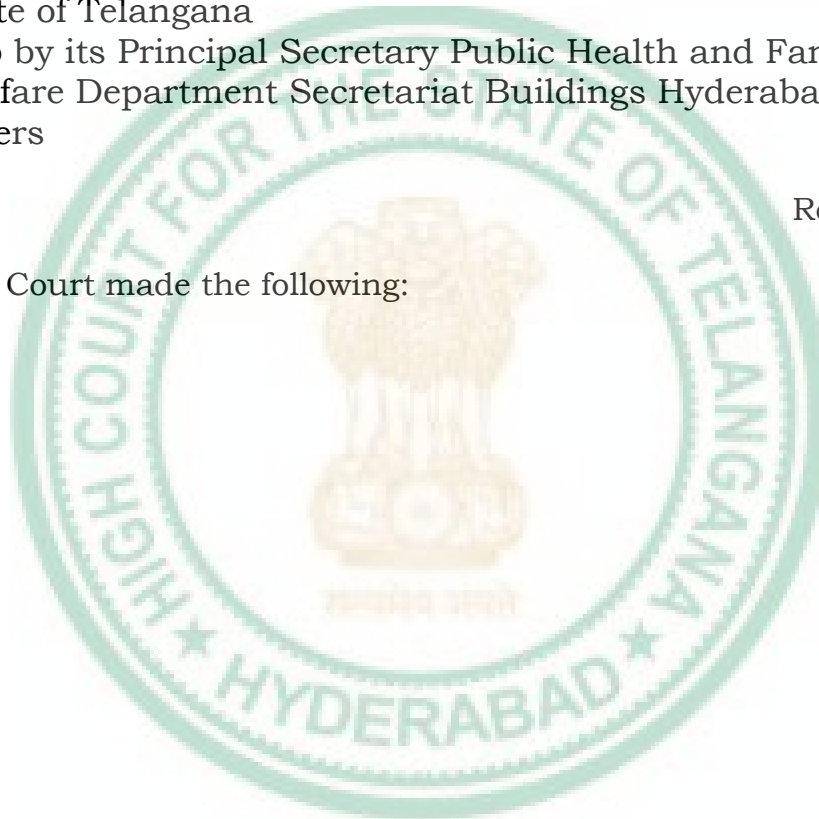
Petitioner

And

State of Telangana
Rep by its Principal Secretary Public Health and Family
Welfare Department Secretariat Buildings Hyderabad &
others

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner and learned Government Pleader for Services II.

2. Petitioner was appointed as Staff Nurse in the year 1995. According to petitioner, in the year, 1998 while she was discharging her duties in Osmania General Hospital, Hyderabad, she received a message from her parents in Bangalore that they were sick and as there was no other to take care, she claimed to have applied leave for three months and went to Bangalore to take care of her parents. However, after expiry of leave period, she did not join the duty and continued to be absented from duty and joined duty on 11.3.2006. Petitioner sought to explain in the affidavit as also before the Disciplinary Authority that initially due to continuous ill-health of her father and later due to her personal ill-health and ill-health of her mother, she could not join the duty. According to petitioner, her father died on 20.5.2008 and her mother died on 18.3.2015. Petitioner has absented in two spells i.e., first spell from 23.11.1998 to 10.3.2006 and second spell from 24.8.2006 to 21.8.2015. Disciplinary action was initiated against the petitioner on the allegation of long unauthorized absence and after following the due procedure as required by Telangana State Civil Services (Classification Control and Appeal) Rules, 1991, the order impugned is passed removing the petitioner from service.

3. Learned counsel for petitioner submitted that the impugned order is challenged on the ground that the order does not contain

reasons in support of the decision and there is no discussion on the explanation offered by the petitioner though reasons are extracted in the order.

4.1. Learned counsel for the petitioner further submitted that long absence of petitioner was only to take care of her parents who were ailing and subsequently died and in the process of looking after her parents who were residing in Bangalore, she also fell sick and cumulatively could not attend to duty, therefore, it is not a deliberate and willful absence; that the explanation offered by the petitioner ought to have been considered and order ought to have been passed on due consideration, therefore, the order is vitiated on this ground alone.

5. It is not in dispute that detailed procedure is followed and enquiry officer recorded that charge leveled against petitioner is proved. Report of the enquiry officer was supplied and show cause notice was issued on 2.11.2019. In the order impugned, the disciplinary authority extracted the contentions of petitioner on the reasons for long absence.

6. As seen from the background facts, it is not in dispute that the petitioner absented from duties in two long spells and put together the total absence from service was about 17 years. The only explanation offered by the petitioner was the ill-health of the parents of the petitioners. It is seen from the explanation offered by the petitioner that she reported to duty on 11.3.2006 and worked for about five months and then again she absented from duty. Her father died on 20.5.2008. Mother of petitioner died after seven years from the date of death of her father. No satisfactory explanation given as to in between, why she absented for a long time. The issue is only prolonged absence and only

explanation offered by petitioner was ill-health of her parents and of self. But, no cogent material to show that the health condition was so bad, not to even apply for leave. Thus, it cannot be said that the reasons assigned by the disciplinary authority in not accepting the explanation and imposing the punishment would amount to non application of mind. In the facts of this case, not dealing with the explanation offered by the petitioner in detail to set aside the order impugned herein only on that ground, and having regard to the fact of long unauthorized absence, it cannot be said that explanation offered by the petitioner was tenable for the disciplinary authority to take a view different from the view taken. It cannot be said that punishment of removal of an employee who worked as Staff Nurse in a Government Hospital absenting from duties for such long spells would be disproportionate to the delinquency alleged and established warranting interference of this Court and show leniency. In the facts of this case, Court is not inclined to exercise equity jurisdiction. Therefore, I see no merits in the writ petition. Accordingly, the writ petition is dismissed. No costs. Miscellaneous petitions, if any pending, are closed.

DATE: 10-2-2020

TVK

P NAVEEN RAO,J

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