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Writ Petition No.1151 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.1151 of 2023

and

W.M.P.No.1196 of 2023

1.G.Jayalakshmi
D/o.G.Ankulu

2.N.Suhasini
W/o.Nandakumar

...Petitioners

Vs

Union of India
represented by the
Lt.General Commandant,
Officers Training Academy,
Chennai - 600 016.

... Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records of the respondent in Proc.No.773/Discp/URC/015/2022 and 733/Discp/URC/016/2022 dated 30.05.2022 issued to the petitioners respectively and direct the respondent to reinstate the petitioners in service as Billing Clerks with continuity of service, back wages and all other consequential benefits thereof including arrears of pay *etc.*



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For Petitioners : Mr.J.Muthukumaran

For Respondents : Mr.A.R.Sakthivel
Senior Panel Counsel

ORDER

This writ petition has been filed challenging the order passed by the respondent through proceedings dated 30.05.2022 wherein the petitioners have been dismissed from service.

2. Heard Mr.J.Muthukumaran, learned counsel for petitioners and Mr.A.R.Sakthivel, learned Senior Panel Counsel, appearing for respondent.

3. The petitioners were working as employees of the Officers Training Academy at Chennai and they were holding the post of Sales Attender in the Unit Run Canteen. On completion of five years, they were re-designated and classified as permanent employees. Disciplinary proceedings were initiated against the petitioners and they were placed under suspension on 12.02.2022. Thereafter, a show cause notice was issued by the respondent and the petitioners gave their response to the show cause notice. Ultimately, the petitioners were removed from service on the ground



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of misappropriation of fund/misconduct. Aggrieved by the same, the present writ petition has been filed before this Court.

4. When the matter came up for hearing on 23.01.2023, this Court directed the learned Standing Counsel to take instructions from the respondent and ascertain as to whether there is any appellate remedy available to the petitioners. This, in view of the fact that the case involves appreciation of facts and it will be more appropriate if this exercise is done by an Appellate Authority rather than this Court undertaking such an exercise in exercise of its jurisdiction under Article 226 of the Constitution of India.

5. Learned Senior Panel Counsel appearing on behalf of the respondent brought to the notice of this Court the guidelines, which govern the terms and conditions of services of regular civilian employees of the Unit Run Canteens.

6. On carefully going through the guidelines, it is seen from Clause 29 of the Guidelines that there is an appellate remedy as against the order



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passed by the disciplinary authority and this appeal remedy must be availed within a period of 45 days from the date of the order of the disciplinary authority.

7. The petitioners were not aware about this appellate remedy that is provided in the guidelines and they have directly filed the present writ petition before this Court. This Court is of the considered view that the petitioners must be given at least one opportunity of appeal for proper appreciation of facts. Hence, it will be more appropriate if the petitioners are permitted to file an appeal before the Appellate Authority within the time frame fixed by this Court.

8. In the result, this Writ Petition is disposed of with a direction to the petitioners to file an appeal before the Appellate Authority within a period of two (2) weeks from the date of receipt of a copy of this order. The Appellate Authority shall entertain the appeal and shall deal with the same on its own merits and in accordance with law and shall pass final orders as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.



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Registry is directed to return the original order passed by the respondent on 30.05.2022 to learned counsel for petitioners to enable the petitioners to avail of the appellate remedy.

02.02.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
gm



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N.ANAND VENKATESH, J

gm

Writ Petition No. 1151 of 2023

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