

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.16221 of 2000

Date: 31st August, 2010

Between:

K.Raghava Reddy

.. Petitioner

And

The Registrar, Osmania University,
Hyderabad and others.

.. Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.16221 of 2000

ORAL ORDER:

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This writ petition is filed questioning the order of imposing punishment of compulsory retirement from service vide proceedings No.MR-169/542/77/Estt.I dated 24.7.1999 of the first respondent.

It appears, petitioner joined the service of Respondent-University as Junior Assistant with effect from 1.7.1977. According to

the petitioner, he availed medical leave from 20.6.1994 to 25.12.1995. However, he was not permitted to join the duty. Therefore, he filed Writ Petition No.19917 of 1996, which was disposed of by this Court by order dated 27.9.1996 directing the respondents to issue posting orders and in pursuance thereof, petitioner was permitted to join the duty. Thereafter, he was placed under suspension on 7.12.1996. A charge memo was issued on 30.5.1998 and after conducting a detailed enquiry into the charges, petitioner was imposed with punishment of compulsory retirement from service by order dated 24.7.1999. The appeal filed by the petitioner against the said order was also rejected on 3.11.1999. Hence this writ petition.

The contention of the learned counsel for petitioner is that as many as three enquiry officers were appointed for enquiry into the very same charges. The first enquiry officer held the petitioner not guilty of the charges and the said report was neither accepted nor rejected. Thereafter, second enquiry officer was appointed and the said enquiry officer held that since the appointment of earlier enquiry officer was not cancelled, conducting of second enquiry does not arise. In spite of the same, third enquiry officer was appointed and the said enquiry officer submitted his report holding the petitioner guilty of the charges. The charges framed against the petitioner, in brief, are as under:

1. Habitual absence from work and negligence of duty;
2. Unauthorised absence from duty; and
3. Nexus with criminal activity and moral turpitude.

The learned counsel for petitioner states that since the first enquiry was not concluded, conducting of second enquiry does not arise and no reasons were furnished for conducting such enquiry. Though the second enquiry officer refused to conduct enquiry, third enquiry officer was appointed. While appointing the third enquiry officer, no reasons were furnished as to why the report of the first

enquiry officer was not accepted. The enquiry itself was not properly conducted and absolutely there was no evidence to hold the petitioner guilty of the charges. Assuming that the charges are proved, imposing of punishment of compulsory retirement for such a misconduct of absenteeism from duty is disproportionate to that of the misconduct.

Whereas the learned counsel for respondents Mr. Deepak Bhattacharjee supported the impugned order and submitted that the charges, as noticed above, are grave in nature and the petitioner had absented from duties for more than 1½ years continuously, therefore after conducting enquiry into the charges, petitioner was made to retire compulsorily by way of punishment and for such a grave misconduct of continuous absence for more than 1½ years, management itself had taken a lenient view and imposed such a punishment, where the petitioner was neither denied pension nor other retirement benefits. Therefore, no interference can be called for into such an order passed by the respondents and the petitioner does not deserve any further relief from this Court.

Heard both sides and perused the impugned order and other material made available on record.

Before going into the merits, it may be necessary to notice that the petitioner having served for more than 30 years, has been made to retire compulsorily vide impugned order dated 24.7.1999. Petitioner was aged 52 years at the time of filing the present writ petition and during the pendency of writ petition, he had already attained the age of superannuation. May be, there are some lacunas in conducting enquiry by the management, particularly in not furnishing reasons for conducting second and third enquiries, as pointed out by the learned counsel for petitioner, but that itself may not necessitate for this Court to interfere with the impugned order passed by the respondents. The charges are grave in nature and the punishment imposed cannot be said to be disproportionate to that of the misconduct committed by the

petitioner. Any interference at this stage holding the enquiry conducted by the University as invalid would lead to complications, which may result in rewarding the petitioner for the misconduct committed by him. Since the petitioner was not denied pension and other monetary benefits, there is no necessity of interfering with the impugned order passed by the respondents on the ground of violation of principles of natural justice. The misconduct of absenteeism is a matter of record and no proper explanation was offered by the petitioner for the same. Apart from that the authority has recorded the findings that the petitioner was a habitual absentee and he was involved in a racket of selling Secondary School Certificates and a criminal case was booked, though he was convicted by the Primary Court, the Appellate Court reversed the said judgment. From a reading of the above, it would not inspire the confidence of the Court to interfere with the impugned order. I am of the view that the writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. However, the respondents are directed to settle the pension and other retrial benefits to the petitioner upto the date of passing of the impugned order within a period of three months from the date of receipt of this order. No order as to costs.

C.V.RAMULU,
J

Date: 31.8.2010
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