

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA
RAO

WRIT PETITION No.3602 of 2013

ORDER:

The petitioner was appointed as a Field Assistant in the year 2006 on contract basis for a period of one year at Palur Gram Panchayat, Thonduru Mandal under the Mahatma Gandhi National Rural Employment Guarantee Scheme. The period of contract was extended from time-to-time and ultimately it came to an end on 30.06.2011. It appears that a show cause notice was issued on 31.08.2010 asking him to submit the explanation as to why his services should not be terminated for drawing Rs.28,600/- without doing work. The petitioner submitted his explanation on 13.09.2010 stating that the said irregularities happened because of one M.Srinivasulu, who is a mate, and he admitted that the said incidents took place due to his negligence only. He also submitted that the irregularities happened due to his marriage at the relevant point of time. An order of removal was passed on 13.01.2011 for the said irregularities. Challenging the same, the present writ petition was filed.

A counter affidavit was filed stating that the contract of petitioner was in force till 30.06.2011 and a show cause notice was issued on 31.08.2010 for the irregularities committed by him in discharging his duties. The petitioner submitted his explanation on 30.09.2010. Since respondent No.2 directed the respondent No.3 to terminate the petitioner's service,

the services of petitioner were terminated.

Learned counsel for the petitioner submitted that the respondent No.3 has no jurisdiction to issue the order of termination and he further submitted that after submitting the explanation by the petitioner, respondent No.3 was satisfied with the said explanation and did not take any action, however, at the instance of respondent No.2 the impugned order of termination was passed. He drew the attention of this Court to the proceedings of respondent No.2 dated 13.01.2011, which is the basis for the present order of termination.

The said letter reads as follows:

“The attention of the Programme Officer/MPDO is invited to the reference cited.

During the personal hearing of Thondur (M) conducted on 25.08.10 the Presiding Officer passed remarks to remove Sri B.V.Ramana Reddy, Field Assistant who has committed irregularities and responsible for deviation of public money in WID No.10123 Para-10 of Paluru G P of Thondur (M) after following due procedure and also directed to recover the deviated amount from him.

It is noticed that, the MPDO/Programme Officer is continuing Sri B.V.Ramana Reddy, Field Assistant even though orders to remove the Field Assistant were passed.

Therefore the Programme Officer/MPDO directed to discharge the Field Assistant immediately from his duties and report compliance.”

A reading of the above letter shows that the respondent No.2 already came to the conclusion to terminate the services of petitioner on the basis of hearing conducted on 25.08.2010 at Thondur Mandal. The subsequent show cause notice was issued by

respondent No.3 and on receipt of explanation from the petitioner, respondent No.3 did not feel fit to issue any order of termination as the petitioner admitted his negligence and asked for pardon. However, in view of the direction of respondent No.2 to respondent No.3, the impugned order of termination was passed on 22.01.2011 and this is evident from the letter referred to in the impugned order of termination.

Though the learned counsel for petitioner submitted that the respondent No.3 is not the competent authority as per the proceedings of Chief Executive Officer dated 06.04.2011, it is clear that the respondent No.3 is a competent authority.

In the circumstances, the impugned order of termination dated 22.01.2011 is set aside and accordingly, this Writ Petition is allowed. No order as to costs.

Miscellaneous petitions pending, if any shall stand closed.

A.RAMALINGESWARA RAO, J

30.06.2016

MVA