

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No. 2694 of 2023

ORDER:

The writ petition is filed under Article 226 of the Constitution of India seeking for the following reliefs:

“...to issue a writ, order or direction more particularly one in the nature of Mandamus declaring the action of the 2nd and 3rd respondents in terminating the petitioner from the post of Assistant Director, NAC, AP. Vijayawada vide Proc.No.NAC/Admn/E1/042/2022-23/1832, dated 29.12.2022 as illegal, arbitrary, unconstitutional and consequently set aside the Proc.No.NAC/Admn/E1/042/2022-23/1832, dated 29.12.2022 issued by the 2nd and 3rd respondents while directing that petitioner be reinstated with all back wages, consequential benefits and pass such other order or orders as this Hon'ble Court may deems just and equitable in the circumstances of the case.” (in verbatim)

2. Heard learned counsel for the petitioner, learned Government Pleader for Skill Development and Training appearing for the 1st respondent and Sri G. Naresh Kumar, learned standing counsel appearing for respondent Nos.2 & 3.

3. The brief facts of the case are as follows:

(a). The petitioner was initially appointed as Computer Operator on 01.07.1999 in the Institute of Architecture Design (A constituent unit of the 2nd respondent). Later, the 2nd respondent appointed the petitioner as Assistant Director,

Administration on 01.01.2010, and the petitioner's contract period was extended up to 31.12.2024. While so, to the utter surprise of the petitioner, the 3rd respondent issued proceedings *vide* Lr.No.NAC/Admn/E1/ADG/2022-23/1617, dated 28.10.2022, requesting the petitioner to attend before the Three (3) member committee and to give oral or written explanation, if any. Consequently, the petitioner has submitted his written explanation dated 09.11.2022 to the Three (3) member committee.

(b). While things stood thus, without conducting proper enquiry and without considering the petitioner's explanation dated 09.11.2022, the 3rd respondent issued the present impugned proceedings *vide* Proc.No.NAC/Admn/E1/ 042/2022-23/1832, dated 29.10.2022, terminating the petitioner from service.

(c). The Service Rule 20 (c) (iv) of the NAC Service Rules reads as follows:

“iv. In case of any misconduct by the employee, the DG, NAC has full discretionary powers to terminate the services of an employee, without prior notice and without payment of any compensation. This termination will be, subject to establishment of such misconduct, through a three person enquiry, constituted by the DG, NAC. The termination of services will be ordered by the DG, NAC.”

4. Learned standing counsel appearing for respondent Nos.2 & 3 would submit that issuance of the present impugned proceedings is against the procedure as contemplated under the NAC Service Rules. He, however, would submit that the respondents will follow due procedure while taking further steps against the petitioner.

5. Having regard to the submissions made by learned counsel for the petitioner and learned standing counsel appearing for respondent Nos.2 & 3, this Court is of the view that the 3rd respondent, without considering the petitioner's explanation dated 09.11.2022 and without waiting for the report from the Three (03) member committee, issued the present impugned proceedings dated 29.10.2022 and the same is against the procedure as contemplated under Rule 20 (c) (iv) of the NAC Service Rules. Therefore, the said proceedings are liable to be set aside. Further, this Court is of the view that the respondents can be directed to initiate fresh proceedings by following due procedure as contemplated under the NAC Service Rules and take appropriate action in accordance with law and the petitioner is at liberty to take any defence which is available.

6. With the above said directions, the present Writ Petition is allowed setting aside the impugned proceedings Proc.No.NAC/Admn/E1/042/2022-23/1832, dated 29.10.2022,

issued by the 3rd respondent and respondent Nos. 2 and 3 are directed to reinstate the petitioner into service till finalisation of the fresh disciplinary proceedings. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

VENKATESWARLU NIMMAGADDA, J

16th February, 2023.
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