

HON'BLE SRI JUSTICE R.KANTHA RAO

W.P.No.3825 OF 2001

ORDER

This Writ Petition is filed to call for the records relating to and connected with proceedings No.SSDC/Admn/2000-01/905, dated 4.11.2000 issued by the respondent, quash the same and to reinstate the petitioner into service with all attendant benefits.

The petitioner was appointed as Seed Production Assistant in National Seeds Corporation Limited, Tanuku, West Godavari District on 21.12.1976. His services were regularized *vide* proceedings dated 15.06.1979. Thereafter, he was promoted as Assistant Manager *vide* proceedings dated 21.09.1988. While so, a news item appeared in the local press alleging that with the collusion of the departmental officials subsidized seeds were being issued under forged/fake permits, which is causing loss to the Government. The petitioner caused enquiry and met the Managing Director of the respondent-Corporation and apprised him of the situation. Later, the petitioner was compelled to fill up a questionnaire without any date, information or records stating that head office require the same for taking further steps in the matter. Thereafter, the petitioner was suspended from services *vide* proceedings dated 1.4.1999. Aggrieved thereby, the

petitioner filed W.P.No.9251 of 1999 and this Court *vide* order dated 19.5.1999 in WPMP No.11440 of 1990 suspended the operation of the order of his suspension. In spite of the same, the respondent did not take back the petitioner into service. Hence, the petitioner filed C.C.No.827 of 1999. Thereafter, on 30.06.1999, this Court dismissed the writ petition by directing the respondent to complete the enquiry within a period of six months. On 4.11.2000, the petitioner was dismissed from service. Questioning the same, the present writ petition is filed.

Heard learned counsel appearing for the petitioner and learned counsel appearing for the respondent.

In the present writ petition, learned counsel appearing for the petitioner pointed out certain irregularities in the course of conducting enquiry and mainly contended that according to Rule 7 (i) and Rule 5 (2) of the Conduct, Discipline and Appeal Rules, 1978, the Authority to frame charges and impose major penalty is the Board of Directors and not the Managing Director.

Perusal of the said Rule also shows that the Board of Directors alone can initiate disciplinary proceedings by framing a charge.

In the instant case, the Managing Director of the respondent-Corporation framed charges and

appointed an Enquiry Officer. In pursuance thereof, enquiry was held against the petitioner and the Managing Director imposed the punishment of removal from service against him.

Learned counsel appearing for the petitioner submits that since initiation of enquiry itself by the Managing Director, who is not competent to initiate the same, is vitiated and accordingly, it is liable to be set aside.

Learned counsel appearing for the respondent submits that the Board of Directors, who is the disciplinary authority, can initiate appropriate enquiry and on the aforesaid technical ground the petitioner cannot be completely exonerated of the charges levelled against him.

Having regard to the submissions made by the learned counsel on either side and having regard to the facts and circumstances of the case, this Court is of the view that as the competency of the Managing Director to initiate the disciplinary proceedings is challenged, other issues in relation to merits need not be gone into the writ petition.

Therefore, the enquiry proceedings against the petitioner, the report thereof and punishment imposed against him are set aside. However, the disciplinary authority may initiate fresh action against the petitioner as per rules, if it so desires.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE R.KANTHA RAO

18th March, 2016

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