

HON'BLE SRI JUSTICE P. NAVEEN RAO

Writ Petition No.36193 of 2015

Date: 09-11-2015

Between:

M. Srinivasulu , S/o M.Chandra, Aged about 31 years,
Occu: Field Assistant (terminated), r/o Charupalli Village,
Nallamada Mandal, Anantapur District.

.... Petitioner

AND

The State of Andhra Pradesh, represented by its
Principal Secretary, Panchayat Raj and Rural
Department, Hyderabad and 5 others

.... Respondents

HON'BLE SRI JUSTICE P. NAVEEN RAO

Writ Petition No.36193 of 2015

ORDER:

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The petitioner is a Field Assistant of Charupalli village, Nallamada Mandal, Ananthapur District. The petitioner was served with show cause notice dated 09-07-2015 calling upon him to submit his explanation on the allegations contained therein within three days from the date of receipt of the notice. The petitioner submitted his explanation on 13-07-2015. Thereafter, by proceedings in Rc.No.05/H.R/FA/NALLAMADA/15 dated 11-09-2015, impugned in the writ petition, the petitioner was placed under suspension.

2. Learned counsel for the petitioner vehemently contended that what is alleged in the impugned proceedings is different from the allegations levelled in charge memo-cum-show cause notice dated 09-07-2015. The impugned proceedings allege

misappropriation of funds of employment guarantee scheme contrary to the charges levelled in the charge memo. It is clear that principles of natural justice are infringed in taking such an extraneous course of action. Suspension of the petitioner from service is wholly unwarranted, and in gross violation of principles of natural justice. The learned counsel, therefore, contended that the order impugned is illegal and is liable to be set aside.

3. The learned special counsel representing the 4th respondent contended that originally when illegality was noticed, a show cause notice was issued to the petitioner and on consideration of explanation submitted by the petitioner a preliminary enquiry was ordered to be conducted by the Mandal Parishad Development Officer and the Mandal Parishad Development Officer conducted preliminary enquiry, wherein he found grave illegalities in performance of the duties and the responsibility of the petitioner and also alleged misappropriation of funds. In response to the same, a fresh charge memo was issued and the same was served on the petitioner on 09.10.2015. Since no explanation is submitted so far, further action is not taken against the petitioner. He submits that in view of the report of MPDO dated 01.09.2015 and having regard to the seriousness of the allegations found in the report, the petitioner was temporarily suspended from service by proceedings dated 11.09.2015. He, therefore, submits that there is no irregularity or illegality in the order passed warranting interference of this Court.

4. As seen from the material papers enclosed to the writ petition and the documents now filed by the special counsel, no doubt, initially, allegation of misappropriation was not made when the show cause notice dated 09.07.2015 was issued to the petitioner, but, as in the preliminary enquiry conducted by the

MPDO, it was noticed that there was misappropriation of public funds, a revised fresh charge memo was issued to the petitioner on 09.10.2015. Since the report of MPDO suggests serious allegation of misappropriation, the petitioner was placed under suspension. When the allegations are grave in nature, more particularly pointing out misappropriation of public funds, it is just and necessary and in public interest to place the employee under suspension pending enquiry into the allegations. Therefore, I see no error in the decision taken by the 4th respondent in placing the petitioner under suspension, having regard to the serious allegations levelled against the petitioner basing on the report submitted by MPDO.

5. In fact, learned counsel for the petitioner submits that without affording any opportunity to the petitioner, a fresh charge memo was issued basing on the report of the MPDO. The circular instructions governing Field Assistants mandate provision of personal hearing after the explanation is submitted to the charge memo/show cause notice. Learned standing counsel states that a show cause was served on the petitioner and it cannot be said that the competent authority has not followed the procedure envisaged in the circular regarding personal hearing. At this stage, learned counsel for the petitioner states that the petitioner has not received the notice dated 09.10.2015 and therefore, the respondents cannot allege that the petitioner has not submitted his explanation and that further action is taken after the order of suspension dated 11.09.2015.

6. In view of the submission made by the learned counsel for the petitioner, the 4th respondent is directed to furnish the charge memo dated 09-10-2015 with all relevant documents, which the 4th respondent may seek to rely. Soon after receipt of the charge memo along with relevant documents, the petitioner shall submit his

explanation to the said charge memo and after receipt of such explanation, the respondents shall follow the due procedure as envisaged in the circular in force and pass appropriate orders. The entire exercise shall be completed within a period of six (6) weeks from the date of receipt of a copy of the order.

Accordingly, the writ petition is disposed of. There shall be no order as to costs. Miscellaneous petitions if any pending in the writ petition shall stand closed.

P. NAVEEN RAO, J

Date: 09-11-2015

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