

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.32420 OF 2010

DATED:12-8-2015

Between:

Damera Annamma

... Petitioner

And

The Government of Andhra Pradesh
Rep. by Principal Secretary
Panchayat Raj and Rural Development
Secretariat Building
Hyderabad
and others

... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. A.P. Suresh Ram

COUNSEL FOR RESPONDENT NO.1 and 4: G.P. for Panchayat Raj
(TS)

COUNSEL FOR RESPONDENT NO.2 : Mr. A.K. Jaya Prakash
Rao

COUNSEL FOR RESPONDENT NO.5 : Mr. Rama Krishna for
Mr. G. Narender Reddy

COUNSEL FOR RESPONDENT NOS.3 and 6: None appeared

THE COURT MADE THE FOLLOWING:

ORDER:

This Writ Petition is filed for a mandamus to set aside proceedings No.043/SRDS/HR/2009, dt.15.11.2010, of respondent No.2, whereby he has confirmed proceedings in Rc. No.B1/352/NREGS-AP/10, dt.31.7.2010, removing the petitioner from the post of Additional Programme Officer, Mandal Praja Parishad, Narmetta Mandal, Warangal District.

2. I have heard Mr. P. Suresh Ram, learned counsel for the petitioner, Mr. A.K. Jayaprakash Rao, learned counsel for respondent No.2, and the learned Government Pleader for Panchayat Raj, appearing for respondent Nos.1 and 4. None appears for respondent No.3.

3. While the petitioner was working as Additional Programme Officer under National Rural Employment Guarantee Scheme in Narmetta Mandal, the Revenue Divisional Officer, Janagaon, sent a report dt.10.6.2010 to respondent No.3 pointing out that she has committed certain irregularities while functioning as the Additional Programme Officer in Narmetta Mandal. Based on the said report, respondent No.3 has issued charge memo, dt.25.6.2010, wherein three charges were framed. The petitioner has submitted a detailed explanation dt.8.7.2010 to the charges. By order dt.31.7.2010 respondent No.3 has terminated the services of the petitioner. The appeal filed by her against the said order having been dismissed by respondent No.2 by order dt.15.11.2010, she has filed the present writ petition.

4. The learned counsel for the petitioner strenuously submitted that

no enquiry whatsoever was conducted by respondent No.3 after his client has submitted her explanation to the charge memo. He has further submitted that respondent No.3 has held the petitioner guilty of charges merely based on the purported enquiry report of the Revenue Divisional Officer, Janagaon, submitted behind the back of the petitioner and that therefore the impugned order passed by respondent No.3 as confirmed in appeal by respondent No.2, suffers from the vice of flagrant violation of principles of natural justice. The learned counsel has placed reliance on order dt.22.11.2010 in W.P. No.28909 of 2010 and batch, and submitted that in the said common order passed by this Court certain guidelines were laid down for the disciplinary authorities in conducting disciplinary proceedings in social audit.

5. Mr. A.K. Jayaprakash Rao, learned counsel for respondent No.2, and the learned Government Pleader for Panchayat Raj (TS) did not dispute the fact that no formal enquiry was held by respondent No.3. They have, however, sought to justify the end result by stating that the petitioner's tenure as Additional Programme Officer has expired on 31.3.2011 and that even if her termination is found bad the petitioner is not entitled for reinstatement.

6. A perusal of the record shows that respondent No.3 has framed three charges which are stigmatic in nature. According to the learned counsel for the petitioner, Circular No.143/SRDS/HR Mannual/2009, dt.27.1.2010, and G.O. Ms. No.98, Panchayat Raj and Rural Development (RD.II) Department, dt.9.3.2010, which are referred in the above mentioned common order in W.P. No.28909 of 2010 and batch, provided for a detailed procedure to be followed in disciplinary enquiry. However, neither the above mentioned order has referred to the details of these two proceedings, nor the learned counsel has placed them before this Court. Even in the absence of a specific procedure, a person cannot be condemned unheard. When specific charges are framed and such charges, if proved, cast stigma on an

employee, whether permanent or temporary, the employer is bound to hold an enquiry. Otherwise, the employee will have to carry the stigma all through his/her life. The Apex Court in *State of Orissa v. Dr. Bina Pani Dei* ^[1] emphasized on the need of fair enquiry and strict adherence to the principles of natural justice.

Admittedly, the Revenue Divisional Officer, Janagaon, has held an enquiry behind the back of the petitioner. The enquiry report which was made basis for framing of charges was not supplied to the petitioner. Except inviting explanation and making reference thereto in the impugned order, respondent No.3 has not held any enquiry. In the above mentioned common order, this Court has held that if a report is received by the disciplinary authority, a copy of the same shall be furnished to the delinquent employee and if any witnesses are mentioned therein, they shall be examined in the presence of such employee who shall be permitted to cross-examine such witnesses. This indeed is the fundamental concept of an enquiry which is followed by respondent No.3 more in breach. Without holding such enquiry, respondent No.3 is wholly unjustified in holding the petitioner guilty of the charges framed by him. Respondent No.2 has failed to consider this grave procedural error committed by respondent No.3 resulting in serious failure of justice.

7. Therefore, the orders of respondent Nos.3 and 2 respectively cannot be sustained and the same are accordingly set aside. Respondent No.3 is directed to hold an enquiry after notice to the petitioner. He shall furnish to the petitioner the enquiry report dt.10.6.2010 of the Revenue Divisional Officer, Janagaon, apart from all other material on which he seeks to place reliance. He shall also give an opportunity to the petitioner to cross-examine the persons, in the event, statements of such persons are proposed to be relied upon by respondent No.3

8. As regards the reinstatement of the petitioner, admittedly her tenure has expired on 31.3.2011. Therefore, she is not entitled to

reinstatement. If the petitioner succeeds in the enquiry, she will be entitled to receive her salary for the period during which she was out of office till her tenure has come to an end, i.e., 31.3.2011.

9. The writ petition is accordingly allowed to the extent indicated above.

As a sequel to disposal of the writ petition, W.P.M.P. No.2749 of 2013 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

12-8-2015

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[\[1\]](#) AIR 1967 SC 1269