

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NO.26371 of 2015

Between :

Smt. V.Nirmala W/o N.Bhaskar Reddy,
Aged 54 years, Occu: Formerly Quality
Control Officer in APOILFED, OPS,
Shivarampally, Rajendranagar,
R/o. Flat No.203, Sri Ram Shahithi Nest,
Road No.2, SBI Colony, Kothapet,
Dilsukhnagar, Hyderabad.

.... Petitioner

and

Andhra Pradesh Cooperative Oilseeds Growers,
Federation Limited, rep.by Vice Chairman-cum-
Managing Director, 7th Floor, Parishrama Bhavan,
Basheerbagh, Hyderabad and another.

.... Respondents

DATE OF JUDGMENT PRONOUNCED : 18.12.2015

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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1. Whether Reporters of Local Newspapers : No
may be allowed to see the Judgments ?

2. Whether the copies of judgment may be : **Yes**
marked to Law Reporters/Journals

3. Whether Their Lordship wish to : No
see the fair copy of the Judgment ?

***THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

+WRIT PETITION No.26371 of 2015

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Vs.

\$ Andhra Pradesh Cooperative Oilseeds Growers,
Federation Limited, rep.by Vice Chairman-cum-
Managing Director, 7th Floor, Parishrama Bhavan,
Basheerbagh, Hyderabad and another.

.... Respondents

!Counsel for the petitioner : Sri T.Sudhakar Reddy

Counsel for the Respondents: Sri M.Papa Reddy, standing counsel for
Respondents

<Gist :

>Head Note:

? Cases referred:

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HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.26371 of 2015

ORDER:

Petitioner joined services as Chemist in the year 1988 in Andhra Pradesh Cooperative Oilseeds Growers Federation Limited (for short, 'Federation'). Later he was promoted as Quality Control Officer in OPS, Shivarampally, Rajendranagar Mandal, Ranga Reddy district, and while discharging as Quality Control Officer, disciplinary action was initiated against her. On 14.05.2015 she was placed under suspension. Simultaneously, she was served with the charge memo containing allegations of illegal recording of Baller Turbidity Temperature Test (for short, 'BTT') results of oil being transported in transport vehicle bearing No.AP 11 V 8312.

Petitioner filed her explanation to the said charge memo on 25.05.2015. On consideration of the explanation, by order dated 22.07.2015, impugned in this writ petition, petitioner was dismissed from service. Aggrieved thereby, this writ petition is filed.

2. Heard learned counsel for petitioner and learned standing counsel for respondents.

3. This Court by order dated 20.08.2015, suspended the order of dismissal from the service. Praying to vacate the said order, W.V.M.P.No.3598 of 2015 is filed.

4. When the W.V.M.P., is taken up for consideration, both learned counsels agreed for disposal of the writ petition.

5. The only contention urged on behalf of the petitioner is that the order of dismissal from the service is not sustainable on the sole ground that the said order is not preceded by proper enquiry conducted by the disciplinary authority on the allegations levelled against the petitioner in the charge memo dated 14.05.2015 and only based on the explanation filed by the petitioner and by looking into the records available with the respondents, without giving further opportunity, the impugned order is passed. Learned counsel for petitioner contends that petitioner is a regular employee and has put up more than 20 years of service before the present action is taken against her. Learned counsel therefore submits that the order of dismissal from service is liable to be set aside on this ground alone.

6. Learned standing counsel submits that the allegations levelled against the petitioner are very grave. The oil which was being transported in the subject vehicle is for consumption of public and strict compliance of quality is necessary. Petitioner made wrong assessment of the quality of the oil and certified for transportation and such action amounts to grave illegality and, therefore, disciplinary action is validly made. In the presence of the petitioner only, the BTT was conducted and BTT results are shown that the quality of the oil was far below the accepted range as per the Prevention of Food Adulteration Act and, therefore, the disciplinary action is

validly initiated and having found that petitioner was responsible for recording of such wrong quality assessment, the punishment of dismissal from service is validly made. Learned counsel further submits that there is no need to conduct detailed enquiry since material available on record would substantiate the charges levelled against the petitioner and, therefore, the dismissal from service is validly made.

7. The basic facts are not in dispute. The petitioner is a regular employee of the respondent federation. The service conditions of the petitioner are regulated by the service regulations of the federation. As admitted by the learned counsel for respondent, whenever disciplinary action is required to be taken against the permanent employee of the respondent federation, detailed procedure as envisaged in the regulations are required to be followed.

8. Against a regular employee if disciplinary action results in dismissal from the service, detailed procedure as envisaged in service regulations has to be followed. After charge memo is served and on consideration of the explanation filed, if the disciplinary authority is not satisfied with the explanation and if he intends to proceed further, he shall order for enquiry, appoint an enquiry officer, furnish the list of documents and the list of witnesses to be examined, supply all the relevant documents on which the charges are made and detailed enquiry required to be conducted by affording due opportunity. After enquiry is completed, if findings recorded by the Enquiry Officer are against the employee, report drawn by the enquiring authority has to be communicated to delinquent employee giving further opportunity to file explanation on the findings of the Enquiry Officer. Only after following the said procedure and after consideration of the explanation, penalty can be imposed, more so penalty in the form of dismissal from service. Petitioner has rendered long service before she was dismissed. On account of dismissal from service, she not only lost the job but her entire service rendered gets wiped out. Thus, consequences of order of dismissal are grave and no such decision can be taken by the employer without following due process.

9. In the instant case, the charge memo dated 14.05.2015 was served on the petitioner. Petitioner submitted her explanation on 25.05.2015 and, thereafter, no

further steps are taken in accordance with the service regulations. Reading of the impugned order would show that basis of charges framed against the petitioner was report of the Managers Committee. It appears that the said Managers Committee has again looked into the issue and based on the said Managers Committee further report, impugned orders are passed. It appears further recording of BTT was taken in the presence of the petitioner and such recording had shown the quality as below the standards prescribed. However, the defence of the petitioner was that time of taking samples is crucial for the assessment of the quality and, therefore, subsequent assessment do not reflect correct reading. This defence required consideration in the domestic enquiry. *Prima facie*, the reading of the order itself would show that the petitioner was not accepting the stand of the respondent on the quality assessment made by her earlier.

10. Having regard to the fact that grave allegations are made, which resulted in imposing punishment of dismissal from service and when petitioner has not accepted the allegations levelled against her, it is but mandatory to hold a detailed enquiry before taking extreme course of dismissing the regular employee from service. Admittedly, no such enquiry was conducted. Based on the records available with the respondents and based on the report of the Managers Committee, which is the basis for framing of charges and looking into the explanation filed by the petitioner to the charge memo, present order is passed. Thus, on the face of it, the order is unsustainable and is liable to be set aside and it is accordingly set aside.

11. Matter is remitted to the disciplinary authority to the stage of receiving of explanation to the charge memo. It is open to the disciplinary authority to consider the explanation submitted by the petitioner and to take further course of action strictly in accordance with the service regulations governing the petitioner. It is made clear that there is no expression of opinion on merits of the allegations made against the petitioner and the defence of the petitioner. The only issue for consideration is not following the procedure before imposing the punishment of dismissal from service and all other issues are left open.

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

JUSTICE P.NAVEEN RAO

Date: 18.12.2015

Note: L.R. copy to be marked.

B/o.

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.26371 of 2015

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Date: 18.12.2015

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