

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

-
AND

-
THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

-
WRIT PETITION No. 42114 of 2015

-
ORDER: (per Hon'ble Sri Justice G. Chandraiah)

Questioning legality of the orders dated 04.06.2013 in O.A.No.672 of 2011 on the file of the Andhra Pradesh Administrative Tribunal the State is before this Court seeking Writ of Certiorari and to set aside the said orders.

2. Brief backdrop of the case is:

The applicant-1st respondent entered into service as Junior Assistant of Gram Panchayat on 01.02.1974. He was promoted as Executive Officer Grade-II (Panchayat Secretary) and further promoted as Executive Officer Grade-I (Grade-I Panchayat Secretary) and he has been continuing in the said post from 17.04.1994 and was due for retirement on 30.06.2011. The District Collector vide proceedings dated 04.05.2006 placed the applicant under suspension from 10.05.2006 to 28.01.2007 on the ground that while he was working as Panchayat Secretary, he was given Full Additional Charge (for short, FAC) of Kalidindi Gram Panchayat from 01.07.2004 to 07.07.2005 and during that period he committed certain irregularities. He was paid only Subsistence Allowance during his suspension period, and though he was later

reinstated, the authorities have not passed any specific orders treating the suspension period as 'duty'.

It is the case of the applicant before the Tribunal that on 14.03.2007, the 2nd respondent initiated disciplinary proceedings against him by issuing a charge memo. He submitted his written statement to the charge memo on 07.04.2007. Subsequently, an Enquiry Officer was appointed, and the 2nd respondent communicated a copy of the enquiry report to the applicant and directed him to submit his explanation as to why a major penalty should not be imposed. The applicant submitted his further explanation on 26.10.2009. However, the 2nd respondent issued proceedings dated 25.03.2010 withholding one increment with cumulative effect on the ground that charges 2, 4 and 5 of the charge memo were proved. The applicant appealed to the 1st respondent on 03.05.2010 and the same was rejected. Aggrieved thereby and alleging that the order passed by the 2nd respondent is a non-speaking order and that the 2nd respondent passed it merely based on the remarks received from the District Panchayat Officer, the applicant approached the Tribunal contending that the orders are bad in view of the fact that the Enquiry Officer has not given any specific finding with regard to proving of charges 4 and 5. It was also his contention that, in the appeal, the 1st respondent passed a single line order stating that there are no new grounds for consideration.

The Tribunal, after considering the facts and

circumstances of the case, confirmed that charges 2, 4 and 5 were proved against the applicant. However, the Tribunal partly-allowed the OA by modifying the punishment of stoppage of one increment with cumulative effect to the one without cumulative effect.

3. Heard learned Government Pleader for the petitioners and the learned counsel for the 1st respondent/applicant.

4. The charges framed against the applicant are as under:

Charge No.1: That Sri N. Chalapathi Rao, Panchayat Secretary Gr-II (FAC) has failed to issue instructions to his subordinate staff for 100% collection since the Gram Panchayat has to collect Rs.2,48,194/- towards house tax for the year 2005-2006.

Charge No.2: That Sri N. Chalapathi Rao, Panchayat Secretary Gr-II (FAC) has not submitted any proposal for surcharge of house tax towards water tax since the approval issued by the Collector (PW) expired by 2003-04.

Charge No.3: That Sri N. Chalapathi Rao, Panchayat Secretary Gr-II (FAC) has not taken any steps either to remove or to regularize two irregular tap connections found in the Gram Panchayat between 1-7-2004 and 7-7-2005.

Charge No.4: That Sri N. Chalapathi Rao, Panchayat Secretary Gr-II (FAC) has not taken any interest to conduct auction of old news papers, even though the Divisional Panchayat Officer, Gudiwada fixed the upset price.

Charge No.5: That Sri N. Chalapathi Rao, Panchayat Secretary Gr-II (FAC) has approved the single tender in 2 times and allowed the same contractor to execute the works, without obtaining the permission from the higher authorities.

5. The Enquiry Officer found that Charge Nos.2, 4 and 5

are proved. After considering the relevant facts of the case, the learned Tribunal on its own came to the conclusion that having regard to the nature of the charges that are proved against the applicant, imposition of punishment of stoppage of one increment "with cumulative effect" is disproportionate and therefore modified the same as "without cumulative effect". Further, insofar as Charge Nos.2 and 4, they are irregularities that can be condoned and it is also not the case of the petitioners that on account of the negligence on the part of the applicant as alleged in those charges, the State sustained loss.

6. Hence, we do not see any illegality or infirmity in the impugned order warranting interference under Article 226 of the Constitution of India.

7. The writ petition is, accordingly, dismissed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

G. CHANDRAIAH, J

A. SHANKAR NARAYANA, J

29th December, 2015

ksm

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

-
AND

—

—

—

—

—

—

ksm