

HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

Writ Petition No.4578 of 2015

Order:

The petitioner herein was working as a Field Assistant of Kallamvaripalem village, J. Panguluru Mandal, Prakasam District, since 17.01.2008. The petitioner states that he is regularly attending to the work and there has been no complaint whatsoever. However, in September 2009, he was given a show cause notice on two allegations; namely that 7 tons of wood which has come from the Employment Guarantee Scheme was sold out and the amount of Rs.7,000/- was not duly accounted for. Secondly, it was alleged that water tank jammu was sold out, but the amount of Rs.5,000/- was also not accounted for. Petitioner states that he had given an explanation to the said allegations denying the same and that an enquiry was also conducted by the 5th respondent – Mandal Parishad Development Officer. Vide his report, dated 03.02.2010, there are no amounts due and payable by the petitioner. Thereafter, the petitioner continued to work without any objection. However, on 25.08.2014 the impugned order was passed by the 3rd respondent – Project Director, removing the petitioner from the post of Field Assistant on the alleged ground of misappropriation of Rs.12,000/- covered by the said two allegations. The petitioner has given a representation against the said orders to the District Collector on 06.01.2015 and questioned the impugned order in the present writ petition.

2. I have heard Sri I. Koti Reddy, learned counsel for the petitioner, and Sri MSR Chandra Murthy, learned Standing Counsel for respondents 3 and 4.

3. As is evident from the dates given above, the impugned order appears to have been passed five years after the show cause notice. Further, though the petitioner's explanation is stated to have been filed and enquiry report was already submitted thereon by the 5th respondent on 03.02.2010, there is no reference to either of the said aspects in the impugned order. Moreover, the impugned order proceeds as if the petitioner has not filed any explanation. Since the allegations relate to the year 2009, after five years it would not be just and proper to remove the petitioner from the said post without even giving him an opportunity of hearing.

4. Hence, I am not satisfied with the manner in which the impugned order is passed by the Project Director. Hence, the impugned order, dated 25.08.2014, is set aside. However, the Project Director, if he so desires, will be entitled to reconsider the entire matter afresh, but after giving notice to the petitioner and giving him an opportunity to offer his explanation in writing. The petitioner shall, therefore, be continued to work as the impugned order is already set aside, but subject to further proceedings of the Project Director as directed above.

5. With the above directions, the writ petition is allowed. No costs.

6. As a sequel, the miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V. AFZULPURKAR, J.

Date: 26.02.2015
Nsr