

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 41350 OF 2014

ORDER:

The petitioner herein challenges the order passed on 28.06.2011 by the Chairman and Managing Director of Northern Power Distribution Company of A.P. Limited imposing the punishment of stoppage of five annual grade increments with cumulative effect besides treating the period of suspension as leave as per his eligibility as well as the order passed on 19.02.2013 by the Board of Northern Power Distribution Company modifying the punishment to that of stoppage of two annual grade increments with cumulative effect.

The case of the petitioner is that he was initially appointed as an Assistant Engineer on 18.05.2005 and that while he was working as such at Warangal, he appears to have inspected Ashoka Bar & Restaurant, Nakkalagutta, Hanamkonda between 15.00 and 16.45 hours on 25.02.2011 as part of his duties and he has observed the meter box seal to have been tampered. On opening the said box, the two seals applied on two sides have been found to have been tampered. Consequently, certain action has been initiated against the consumer for evasion of the electricity consumption charges and the penalty proceedings for the resultant pilferage of energy, have been issued. It is the assertion of the petitioner that the consumer paid an amount of Rs.2,34,909/- on 26.02.2011 itself, which amount included the inspection charges and reconnection charges. It is the case of the petitioner that since the consumption of electric energy by the consumer was much more than the connected load, he has prepared demand for the development charges based upon the excess utilization of the load factor, totalling to Rs.18,150/-. However, an adverse news item has appeared in one of the vernacular newspapers on 19.03.2011. Taking a serious view, the Superintending Engineer, Warangal passed an order on 31.03.2011 placing the petitioner under suspension pending enquiry into five charges framed against him.

One of the charges reads as under:

“ On verification of the records, it is observed that Sri B. Ravi, AE/DPE-1/Warangal (U/s) with a malafide intention has recorded the different loads on same items on inspection note Sl.No. 67083 (theft case) & Sl.No. 67097 (Development Charges) on 25.02.2011 against SC No. 22-16-2292. The details are as follows:

Sl.No.	Equipment	Qty.	Loads recorded		
			67097 (DC)	67083 (Theft)	Difference
1.	D.Fridge	1 No.	500 W	200 W	300 W
2.	Exhaust Fan	1 No.	150 W	100 W	50 W
3.	Water Cooler	2 Nos.	250 W each	200 W each	100 W

The gravamen of the charges framed against the petitioner reflects the anxiety exhibited by him for reducing the consumption load, so that the revenue that has worked out due to the pilferage by the consumer can get substantially reduced. The *bona fide* conduct of the writ petitioner is hence, suspected by the disciplinary authority. It appears, a detailed enquiry was conducted in accordance with the procedure prescribed and enquiry officer has drawn his detailed report and submitted it holding the petitioner guilty of the charges. However, unfortunately, the petitioner has not chosen to make a copy of the said enquiry officer’s report part of the Writ Petition paper book. Though it was pointed out to the learned counsel for the petitioner Sri Shiva Kumar, on 19.01.2015 and 20.01.2015, the petitioner has not taken any steps to bring on record the said material. I am therefore, handicapped from examining as to the basis for the enquiry officer to record his findings adversely against the petitioner.

It is appropriate, at this stage, to notice that the Managing Director has examined the enquiry officer’s report and thereafter, came to a provisional conclusion to impose the punishment of stoppage of five annual grade increments with cumulative effect, besides treating the period of suspension as leave and hence, called upon the petitioner to show cause why such a punishment should not be imposed on him, through his proceedings, dated 28.06.2011. Thereafter, the petitioner has filed his explanation contesting that the punishment is excessive and it cannot be imposed on him, through his

undated representation, which is placed at page 30 of the paper book. After examining the explanation offered by the petitioner, the Chairman and Managing Director awarded the punishment of stoppage of two annual grade increments with cumulative effect besides treating the period of suspension from 01.04.2011 to 21.06.2011 as leave as per his eligibility.

It is contended that for a person occupying the rank of an Assistant Engineer, the Chief Engineer is the competent authority to impose a major punishment, but however, the Chairman and Managing Director himself has imposed the punishment, thus denied the petitioner his right of opportunity of appealing against the order passed by the Chairman & Managing Director. It will be relevant to notice that the Chairman & Managing Director is occupying a superior status to that of the Chief Engineer. Therefore, the order passed by the Managing Director cannot be set at naught only on the plea that he is not the competent of the authorities prescribed under the Regulations. Insofar as denying an opportunity of preferring an appeal is concerned, the Board is a multi-member body and as per the regulations, wherever the Managing Director discharges the functions of the disciplinary authority, the Board becomes the appellate authority. Therefore, the petitioner is not denied an opportunity of having an order of punishment passed by the disciplinary authority from being verified for its correctness by an appellate authority.

Excepting the explanation, which the petitioner has offered in reply to the show cause notice, dated 28.06.2011, I do not have any material on record for me to appreciate as to whether there was adequate material, which lent support to the findings recorded by the enquiry officer on the respective charges. For want of proper and necessary material on record, the contentions canvassed by the petitioner to the contra cannot be considered by this Court.

Hence, I do not find any legal infirmity in the orders passed by the Managing Director imposing the punishment of stoppage of two

increments with cumulative effect on the petitioner and hence, the Writ
Petition stands dismissed at the admission stage. No costs.

Consequently, the miscellaneous applications, if any shall also
stand dismissed.

NOOTY RAMAMOHANA RAO, J

27th January 2015

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