

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.21811 of 2016

ORDER:

The petitioner was appointed as Lineman (Trainee) in the year 1991 in the erstwhile APSEB. The said post was subsequently redesignated as Sub Engineer in August, 1992. He was promoted as Additional Assistant Engineer on 31.03.2000 and subsequently converted as Assistant Engineer in the year 2011. While working as Additional Assistant Engineer at Indoor District Stores, Nizamabad, he was kept under suspension on 12.02.2014 pending enquiry. An Enquiry Officer was appointed by proceedings of the Chairman & Managing Director dated 11.03.2014. The Enquiry Officer issued a Memo on 20.03.2014 framing three charges against the petitioner for the alleged irregularities.

The petitioner subsequently submitted his explanation to the charge memo. The enquiry was conducted and the Enquiry Officer submitted a report on 26.09.2014 holding that all the charges are proved. On the basis of the said enquiry report, a show cause notice was issued on 28.10.2014 proposing minor punishment and recovery of an amount of Rs.9,22,888.17 towards value of shortage of copper and aluminium scrap. Though the petitioner submitted his explanation, a punishment of stoppage of two annual grade increments with cumulative effect was passed by order dated 01.12.2015 besides treating the suspension period as not on duty and ordering recovery of Rs.9,22,888/-. Against the same, the petitioner preferred an appeal to the Board of Directors of the Distribution Company. When an order was passed on 29.04.2016 modifying the punishment of stoppage of two annual grade increments with cumulative effect to that of stoppage of one annual grade increment with cumulative effect and not interfering with the punishment of recovery of the amount, the present Writ Petition is filed.

Learned Counsel for the petitioner submits that since the show cause notice was issued only for imposing a minor punishment,

imposition of major punishment i.e., stoppage of one annual grade increment with cumulative effect is contrary to law. He further submits that since the original order was passed by the Chairman and Managing Director on 01.12.2015 imposing punishment of stoppage of two annual grade increments with cumulative effect, the said authority, being part of the Board of Directors, should not participate in the deliberations of the Board imposing the punishment of stoppage of one annual grade increment with cumulative effect.

A perusal of the show cause notice clearly indicated that it was issued for imposition of minor punishment as per Regulation 5 of Discipline & Appeal Regulations. The petitioner submitted his explanation to the said show cause notice. After considering the said explanation, an order was passed by the Chairman & Managing Director on 01.12.2015 imposing punishment of stoppage of two annual grade increments with cumulative effect, which is a major punishment. The petitioner preferred appeal to the Board of Directors and the Board of Directors without adverting to the nature of punishment, modified the punishment from stoppage of two annual grade increments with cumulative effect to stoppage of one annual grade increment with cumulative effect. The said stoppage of one annual grade increment with cumulative effect is also a major punishment.

This Court is *prima facie* satisfied with the submission of the learned Counsel for the petitioner, and the impugned order dated 29.04.2016 is set aside and the matter is remanded to the second respondent for passing appropriate orders in accordance with law keeping in view the show cause notice dated 28.10.2014, within a period of three months from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, allowed to the extent indicated above. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

02.08.2016
VS

(A.RAMALINGESWARA RAO, J)