

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WVMP.No.3229 of 2016

In

W.P.No.33446 of 2015

And

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COMMON ORDER :

Heard the counsel for petitioner, and Sri S. Dushyanth Reddy, counsel for respondents.

2. The petitioner has filed this Writ Petition challenging the action of 1st respondent – Bank in initiating disciplinary proceedings vide proceeding dt.04.06.2015, placing the petitioner under suspension vide proceedings dt.06.07.2015 and sought re-instatement of the petitioner by setting aside the said order dt.06.07.2015.

3. The petitioner was employed in the 1st respondent-Bank as a Deputy General Manager (Administration). The Bank issued a notification for filling up vacancies of staff assistants under the quota of Primary Agricultural Co-operative Societies staff on 04.09.2011, calling for application from eligible candidates. Selection was taken up in the year 2014, and interviews were held in February, 2014.

4. When the petitioner was working as Assistant General Manager (Administration) for purpose of verification of documents, the 1st respondent constituted two teams called Team-1 and Team-2 on 10.02.2014, consisting of other employees of the Bank of the rank of

Manager, Assistant Manager for the purpose of verification of documents of the prospective employees. The said Committee functioned between 20.02.2014 and 22.02.2014. It verified the documents as required by the 1st respondent.

5. Alleging that certain irregularities took place in the verification process in regard to one particular candidate by name Sri P. Pradeep Reddy, who was subsequently given appointment, and that the petitioner had acted negligently in that regard, a show-cause notice dt.04.06.2015 was issued to petitioner inviting his explanation thereto as to why disciplinary action should not be initiated against him.

6. The petitioner gave a reply thereto on 08.06.2015, denying the allegation.

7. On 06.07.2015, the petitioner was placed under suspension, pending enquiry.

8. In the order, placing the petitioner under suspension, it was stated that on 22.02.2014 Sri P. Pradeep Reddy had been selected and recommended for employment by the verification committee headed by the petitioner, that the said Sri P. Pradeep Reddy filed two Writ Petitions in this Court impleading the General Manager of the District Co-operative Central Bank Limited, Kadapa, that the appointment of the said Sri P. Pradeep Reddy was an irregular appointment and his appointment caused loss to the Bank.

9. The Service Regulations framed by the Andhra Pradesh Co-operative Banks Association, Hyderabad for employees working in the District Co-operative Central banks in consultation with service associations on 07.06.2012 (which was adopted by the respondents on 08.06.2012) laid down the procedure for conducting enquiry which mandated the framing of a charge-sheet, inviting explanation to the charge-sheet and then appointing an enquiry officer and conducting enquiry. But without framing any charge-sheet against the petitioner, the 1st respondent appointed an enquiry officer on 07.09.2015 who asked the petitioner to appear before him on 09.09.2015 and answer a questionnaire prepared by the enquiry officer.

10. No witness was examined in the presence of petitioner, and no opportunity was given to petitioner to cross-examine such witness. Even the copy of enquiry report was not furnished to petitioner wherein the enquiry officer is alleged to have given findings against him.

11. Shockingly, a notice dt.30.09.2015 was issued to petitioner asking the petitioner to show-cause why action should not be taken against him for violation of procedures and for gross negligence in discharging his duties which would be a major misconduct as per S.R.58, and why severe punishment should not be imposed on him. The petitioner was asked to submit his written explanation with documentary evidence.

12. At that stage, the petitioner approached this Court.

13. In the counter-affidavit filed by the respondents at para no.5, it is stated as under :

“In reply to Para 5, it is submitted that it is not true to state that the Bank did not followed the procedure prescribed in Banks Service Regulations while suspending the petitioner. It is submitted that on 04.06.2015 a show cause notice was issued to the petitioner and on 08.06.2015 petitioner had gave explanation, on 06.07.2015 petitioner was suspended. On 09.09.2015 an enquiry was conducted duly issuing notice to the petitioner. On 30.09.2015 a show cause notice was issued to the petitioner under service regulation no.58. Hence respondent bank has followed due procedure while suspending the petitioner.”

14. The counsel for petitioner contended that there has been non-compliance with the applicable regulations which deal with conduct, discipline and procedure for conducting disciplinary proceedings, and in particular, no charge memo has been framed though a major punishment is proposed under Rule 62; and without framing a specific charge and without inviting his explanation as mandated by Section 66 (ii), the enquiry officer was straightaway appointed to conduct the enquiry. He further contended that the report of enquiry officer was not furnished to the petitioner, and in fact, no witnesses were examined in the presence of the petitioner, and no opportunity was given to cross-examine the witnesses though clause (vii) of Regulation 66 of the Regulations provided for this.

15. When specifically questioned as to whether any charge memo was issued to petitioner by 1st respondent, the counsel for Bank is

unable to point out any proceeding wherein a specific charge was framed against the petitioner, other than the show-cause notice dt.04.06.2015 which appeared to be a preliminary notice. He also did not dispute the fact that the report of the enquiry officer was not furnished to petitioner and that witnesses allegedly examined by the enquiry officer as mentioned in the proceeding dt.30.09.2015 were not examined in the petitioner's presence or the fact that petitioner was not allowed to cross-examine them.

16. Therefore, the conclusion is inevitable that the respondents have come to the conclusion that petitioner was guilty of a misconduct which is not specifically indicated in a charge memo, and the respondents have come to a conclusion that he was guilty of violation of procedure and gross negligence which amounts to a major misconduct, warranting imposition of a severe punishment without complying with principles of natural justice or the applicable regulations.

17. There has been clearly a gross violation of the provisions of applicable regulations dealing with conduct of disciplinary proceedings against the petitioner, and in particular, Regulation 66, by the respondents. Therefore, the entire process commencing from the very initiation of disciplinary proceedings, suspending the petitioner till the final show-cause notice dt.30.09.2015 is vitiated by arbitrariness, violation of principles of natural justice and violation of the applicable regulations dealing with disciplinary proceedings.

Therefore, the impugned proceedings commencing from the proceeding dt.04.06.2015 till the final show-cause notice dt.30.09.2015 are set aside on the above grounds.

18. Accordingly, the Writ Petition is allowed. Consequently, WVMP.No.3229 of 2016 is dismissed. No order as to costs.

19. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 26-10-2016

Ndr/*

