

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.10983 OF 2011

DATED : 16.09.2016

Between :

V. Narsaiah S/o.Venkataiah,
E.51647, Deputy Superintendent (Finance),
Aged 58 yrs, R/o.6-3-30/2, Flat No.202,
Vijaya Talkies Road, Hanamkonda,
Warangal District.

..

Petitioner

And

Andhra Pradesh State Road Transport Corporation,
Musheerabad, Hyderabad,
Rep., by its Vice Chairman & Managing Director & 3 others.

.. Respondents



This court made the following :

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ORDER :

At the relevant point of time, petitioner was working as Deputy Superintendent (Finance), in the respondents-Corporation. Alleging irregularities in maintenance of Funds register, for the period from June 2010 to February, 2011 as per the proforma communicated in the Accounts manual and that petitioner did not arrive the closing balance at the end of the day during the above period, disciplinary proceedings were initiated by memorandum dated 21.02.2011 and the following charge was levelled against the petitioner :

CHARGE : “For having failed to maintain the Funds register as per the proforma communicated in Accounts Manual and not arrive the closing balance at the end of the day during the period from June 10 to Feb 11, which amounts to mis-conduct in terms of Regulation No.28 IX (a) of APSRTC Employee (Conduct) Reg.1963.”

2. Petitioner was called upon to submit his explanation. Petitioner submitted his explanation. Not satisfied with the explanation submitted by the petitioner domestic enquiry was ordered. During the course of enquiry the statement of the petitioner was recorded by the Enquiry Officer. Based on the statement given by the petitioner the Enquiry Officer recorded the finding of guilt against the petitioner. Considering the findings recorded by the Enquiry Officer and after considering the explanation submitted by the petitioner, the disciplinary authority passed orders on 26.03.2011 imposing the punishment of

reversion to the post of Senior Assistant (Finance). Aggrieved by the said order this writ petition is filed.

3. Heard Dr.V. Raja Ram Mohan Rao, representing the learned counsel for the petitioner on record and Sri B. Mayur Reddy, Standing counsel for the respondents.

4.1. Learned counsel for the petitioner would submit that the enquiry was conducted in gross violation of the procedural safeguards embedded in the Disciplinary Regulations in the respondent-Corporation. Petitioner was not supplied with copy of the report, based on which the charge was leveled against him, though Regulation 12 (3) mandate supply of the said copy. He would further submit that petitioner was not intimated of the appointment of Enquiry Officer and conducting of enquiry and a summary notice was issued by the Depot Manager directing the petitioner to attend on the date and place mentioned therein. He would further submit that petitioner had no experience in accounts and he was working all along on technical side. He was posted in this branch and due to inexperience in handling the accounts and finance, certain mistakes were crept in which were not deliberate and intentional but occasioned due to lack of experience, advanced age, ill-health and pressure of work. He would therefore, submit that there is no justification to take disciplinary action and impose such a grave punishment.

4.2. He would further submit that no loss is caused to the respondent-Corporation and ultimately the accounts are regulated and adjusted and there is no allegation of mis-appropriation. He would further submit that on account of punishment imposed, the

last pay drawn is reduced. An employee of the respondent-Corporation, on retirement would only get gratuity and provident fund benefits. The gratuity is determined based on the last pay drawn. On account of reversion, the last pay drawn is reduced and therefore whatever the additional rupees that he would have got for having rendered long service was denied on an instance which did not result in any financial loss, nor there was an allegation of misappropriation.

5.1. Sri B. Mayur Reddy, learned standing counsel would submit that at no point of time, petitioner pleaded that he was denied of reasonable opportunity. He did not protest on the allegation that the report based on which, the disciplinary proceedings were initiated were not supplied. He attended the enquiry and during the course of enquiry he has clearly deposed that due to ignorance, ill-health and pressure of work, he did not account for the amount as specified in the charge. He would therefore submit that what is alleged against the petitioner, is admitted by the petitioner and therefore, violation of procedural safeguards in conducting the enquiry does not arise. He would submit that no doubt the initial notice indicated the punishment of reversion valid for one year, but having regard to the fact that the petitioner was due for retirement, which is less than one year from the date of imposing of punishment, the punishment was accordingly imposed as permanent reversion.

5.2. Learned standing counsel would submit that for effective functioning of the Corporation, financial discipline is very important. A person working in finance section has to be very

Careful in accounting the money that flows into various accounts and proper updating of accounts is crucial. Petitioner never protested about posting him in accounts branch. Even in the defence, he has taken a plea that due to pressure of work and advanced age, ill-health, he could not immediately update the records.

6. A reading of the order would show that since petitioner admitted of the charge levelled against him, the disciplinary authority imposed punishment of reversion holding that delinquent committed grave mis-conduct during the course of his duties.

7. The charge as already extracted would show that petitioner failed to maintain the Funds register as per the proforma communicated in the accounts branch and did not arrive at the proper closing balance at the end of the day during the period from June 2010 to February 2011. In the deposition, there is clear and categorical admission of the charge levelled against the petitioner. Since petitioner admitted the charge levelled against him, it cannot be said that there was procedural violation and denial of reasonable opportunity in conducting the enquiry and on that ground the proceedings cannot be nullified. Moreover, though the learned counsel for the petitioner vehemently contended that along with the charge memo he was not served with the report, based on which, the charge is leveled, on a perusal of the explanation filed by the petitioner, it is seen that no such objection was raised by the petitioner.

8. Furthermore, though learned counsel for the petitioner vehemently contended that petitioner did not have prior intimation of conducting of enquiry, notice by which petitioner was asked to appear before the Enquiry Officer would show that the appearance is with reference to enquiry. During the enquiry, petitioner clearly deposed that he was giving his statement with full knowledge and was ready to give statement. Thus, it cannot be said that petitioner was denied reasonable opportunity.

9. Petitioner was dealing with finance and accounts. Greater responsibility vests on the person dealing with finances and accounts, more particularly working in the capacity of Deputy Superintendent. Having rendered long service, the Corporation expects him to be diligent in maintaining the accounts properly. As admitted by the petitioner, he has not maintained the accounts as required. If what was contended by the petitioner during the enquiry was correct that he was not well or there was lot of pressure of work or that he did not have experience in dealing with financial matters, petitioner ought to have brought to the notice of the competent authority and requested him to divest the responsibilities for some time till he recoups from the ailment he was suffering. Thus, without having protested and having worked in finance section, it was his primary duty to maintain the accounts properly. This fact was admitted by the petitioner in his deposition during the enquiry. Since the petitioner has admitted of his lapses, it cannot be said that the disciplinary proceedings were not validly taken up.

10. Once the disciplinary proceedings were validly conducted, it is for the disciplinary authority to impose appropriate punishment. In the instant case, it cannot be said that the punishment imposed against the petitioner is disproportionate to the delinquency alleged and held proved, more particularly having regard to the fact that the issue concerns proper maintenance of accounts. I see no merit in the writ petition and the same is liable to be dismissed.

11. Accordingly, the writ petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

16th September, 2016
Rds

P.NAVEEN RAO,J

