

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION NO.5615 OF 2010

ORDER:

The petitioner was appointed as Record Assistant, vide proceedings, dated 16-06-1983. Thereafter, he was promoted as Junior Assistant-cum-Typist on 19-05-1990. While so, he was asked to work as Care Taker in P.G. hostel of respondent University. Accordingly, he worked as Care Taker during the year 1992-93. Thereafter, it appears that the audit party of the University verified the accounts and noticed some irregularities. On the basis of the report of the audit, the petitioner was placed under suspension pending enquiry, vide proceedings, dated 08-09-1994 and later on, he was reinstated on 03-01-1996. One Dr.B.Lingam, was the Warden at that time and he was not suspended. Basing on the audit report, two charges were framed against the petitioner. A show cause notice was issued to the petitioner on 11-01-2010, for which, the petitioner submitted his explanation on 19-01-2010. Having not satisfied with the explanation submitted by the petitioner, the Enquiry Officer was appointed, who issued a notice to the petitioner on 19-05-1995 calling for explanation of the petitioner and for production of relevant documents. The Enquiry Officer submitted a report, vide letter dated 08-09-2009 recommending suitable action against the delinquent. Thereafter, another audit was conducted. Both the enquiry report and audit report were furnished to the petitioner and the explanation of the petitioner was asked. The petitioner submitted his explanation on 19-01-2010 against the proposed action of recovery and stoppage of two increments with cumulative effect. Ultimately, when an order was passed on 24-02-2010 for recovery of Rs.3,17,692/- and withholding of two increments with cumulative effect, the present writ petition is filed.

2. Charges levelled against the petitioner by proceedings, dated 26-03-2009 read thus:

Articles-I: That the said Sri K.Yesuratnam, Senior Assistant while working as Caretaker of the P.G. Hostel, College of Agriculture, Rajendranagar during the period from 1992-94, he misappropriated an amount of Rs.1,11,250/-.

Articles-II: That during the aforesaid period and while functioning in the aforesaid office, the said Sri K.Yesuratnam, Senior Assistant, working as Caretaker of the P.G. Hostel, College of Agriculture, Rajendranagar, he misappropriated an amount of Rs.1,40,496.02.

Articles-III: That during the aforesaid period and while functioning

in the aforesaid office, the said Sri K.Yesuratnam, Senior Assistant, working as Caretaker of the P.G. Hostel, College of Agriculture, Rajendranagar, he misappropriated an amount of Rs.70,946.50.”

The petitioner submitted written statement on 09-04-2009 and sought for copies of Special Audit Report and letter of the Chairman of Enquiry Committee. Thereafter, an Enquiry Officer was appointed on 18-07-2009, who submitted a report on 08-09-2009 without conducting any enquiry as provided under Rule 20 of Andhra Pradesh Civil Services (CC & A) Rules, 1991 (for short ‘the Rules’). Based on the same, a show cause notice was issued for recovery of an amount of Rs.3,17,692/- and also imposing major punishment of withholding two increments with cumulative effect. After receiving the explanation for the proposed punishment, the impugned order was passed.

3. This Court carefully perused the report submitted by the Enquiry Officer on 08-09-2009, which does not disclose the conduct of any enquiry in accordance with the Rules. In the circumstances, this Court is constrained to set aside the impugned order only on the ground of violation of procedure contained under Rule 20 of the Rules and accordingly, set aside the same and the matter is remanded to the respondent for conducting enquiry afresh on the basis of the charges levelled against the petitioner earlier and complete the same in accordance with law within a period of six months from the date of receipt of a copy of this order.

4. Accordingly, the writ petition is allowed. No order as to costs. Miscellaneous petitions, if any pending in this petition shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 31-03-2016

Hsd