

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.16531 OF 2009

ORDER:

The petitioner submits that he has been wronged by the 4th respondent-Kuchipudi Primary Agricultural Cooperative Credit Society Ltd., Kuchipudi, in removing him from service by an order dated 18.02.2008. Against the said order the petitioner also filed an appeal before the A.P. Cooperative Tribunal at Vijayawada (in short "the Tribunal") by filing O.A.No.18 of 2009 and the same was dismissed erroneously.

It is the contention of the learned counsel for the petitioner that on a quarry being raised by this Court how the Writ Petition would be maintainable learned counsel for the petitioner placed on record the judgment of this Court reported in **Pinapatruni Nagabhushanam Vs. Govt. of A.P., Co-operation Department and others**^[1], wherein this Court construing the Section 116-AA of A.P. Co-operative Societies Rules, 1964 (in short "the Rules") and Rule 72(3) had held that the Rules framed have a character of statutory rules and if there is any violation of said statutory rules writ petition would be maintainable.

The grievance of the petitioner is that the charges levelled against the petitioner are frivolous and even if the charges are considered to be proved would only invite minor penalties in terms of model service conditions for employees framed by the Government of Andhra Pradesh Cooperative Department vide its proceedings in Rc.No.31811/2005/116(c)/2, dated 03.10.2005. In the said proceedings the minor misconduct is defined as under:

"MINOR MISCONDUCT: The following acts of commission of omission shall be treated as minor misconduct on the part of and employee.

- a) Absence without leave for over staying sanctioned leave.
- b) Irregular attendance.
- c) Negligence in performing entrusted duties.
- d) Disrespect to customers and Officials.
- e) Wilful avoiding or slowing down in the performance of the work or Abetment or instigation so to do.

PUNISHMENTS FOR MINOR MISCONDUCT:- Any one of the following punishments maybe imposed against an employee who is found guilty.

- a) Warning or censure.
- b) Fine upto Rs.500/-
- c) Recovery from salary of the whole or part of any pecuniary loss caused by employee of the Society.
- d) Non-payment of salary for the unauthorised absence.”

It is the contention of the petitioner that though the charges framed against the petitioner relating to minor misconduct, the major punishment of removable from service was effected and thus the action of the respondents in removing the petitioner is totally against and illegal. Learned counsel also submits that the petitioner also filed an appeal before the District Level Committee of Krishna District on 09.04.2008 and no orders as such were passed by the District Collector and Ex-Officio Chairman of the District Level Committee.

The learned counsel appearing for the 4th respondent raised an objection with regard to the maintainability of the writ petition.

Having considered the material on record, it is clear that the Tribunal taking note of its powers had rightly rejected the appeal as not maintainable leaving it open for the petitioner to avail appropriate remedy as may be available to the petitioner. The stand taken by the 4th respondent before the Tribunal is that the petitioner had raised the Industrial Dispute under Section 11A of the Industrial Disputes

Act, 1947. If one has to rely on the model service conditions the said service conditions also stipulated the procedure for disciplinary action and the appellate remedy as available. It is not being disputed by both the parties now that in the light of the bye-laws relating to the service conditions for the employees of PACS, framed by the Government, the appellate authority is the District Level Committee. As it is the contention of the learned counsel for the petitioner that the appeal filed by the petitioner is not disposed of so far, the interest of justice would be served if a direction is issued to the 1st respondent to pass orders on the appeal filed by the petitioner within a period of 12 weeks from the date of receipt of this order, if the same is already not been disposed of. It is needless to mention if the petitioner seeks an opportunity of hearing the same shall be provided. Petitioner also is at liberty to submit any other information or further explanation raising all contentions before the District Level Committee.

Accordingly the writ petition is disposed of. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE CHALLA KODANDA RAM

Date:08.02.2016

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