

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THURSDAY THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND SIXTEEN

PRESENT
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.23507 of 2004

Between:

A.Anil Kumar

..... PETITIONER

AND

Life Insurance Corporatin of India,
Rep.by its Chairman and Managing
Director, Mumbai and 2 others

....RESPONDENTS

The Court made the following:

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.23507 of 2004

ORDER:

This writ petition is filed questioning the order of the 3rd respondent/appellate authority dated 28.09.2004 in rejecting his appeal, while confirming his termination orders passed by the 2nd respondent/disciplinary authority, dated 31.05.2004.

Heard both sides.

The issue raised by the petitioner in the present writ petition is that the 3rd respondent/appellate authority has not given any opportunity of his personal hearing despite his request and erroneously rejected his appeal. The petitioner is the cashier of the respondent Corporation. On

certain irregularities, after following due procedure, the services of the petitioner were terminated vide proceedings dated 31.05.2004 by the 2nd respondent/disciplinary authority. Against the said order, the petitioner preferred appeal before the 3rd respondent/appellate authority on 23.06.2004. The 3rd respondent/appellate authority, while observing that no further opportunity need be given inasmuch as sufficient opportunity was given to the petitioner during the enquiry, rejected his appeal.

The learned counsel for the petitioner submits that the appellate authority has to reconsider the case of the petitioner and has to give an opportunity to the delinquent employee for his personal hearing, but without re-appreciating the facts of the case, simply rejected the appeal of the petitioner. The learned counsel further submits that principles of natural justice demand that an opportunity should be given to the delinquent charged employee to make his oral and written representation during course of hearing of appeal, since it is he who has preferred the appeal questioning the correctness of the findings of the enquiry officer. In support of his contention, the learned counsel for the petitioner has relied upon the decision of the Apex Court in ***Union***

of India v. Tulsiram Patel^[1] the Apex Court held as under:

“The only stage at which a government servant gets ‘a reasonable opportunity of showing cause against the action proposed to be taken in regard to him’ i.e. an opportunity to exonerate himself from the charge by showing that the evidence adduced at the inquiry is not worthy of credence or consideration or that the charges proved against him are not of such a character as to merit the extreme penalty of dismissal or removal or reduction in rank and that any of the lesser punishments ought to have been sufficient in his case, is at the stage of hearing of a departmental appeal (emphasized)”

In view of the above law laid down by the Apex Court, the appellate authority must not only give a hearing to the delinquent employee but also pass a reasoned order dealing with the contentions

raised by him in the appeal. In the present case, the 3rd respondent/appellate authority rejected the request of personal hearing of the petitioner only on the ground that he was given sufficient opportunity during course of enquiry, which is not permissible and cannot be sustained.

In view of the above, without going into the merits of the case, I feel that ends of justice would be met if the matter is remanded back to the 3rd respondent/appellant for disposal afresh, after giving sufficient opportunity of being heard to the petitioner. In the circumstances, the impugned order dated 28.09.2004 of the 3rd respondent/appellant authority is set aside and the matter is remanded back to the 3rd respondent/appellate authority for disposal afresh, in accordance with law, within a period of three months from the date of receipt of a copy of this order, without being influenced by any of the observations made in this order.

The Writ Petition is accordingly disposed of. No order as to costs.

As a sequel to disposal of the writ petition, WPMP.No.5076/2016 stands closed.

M.S.K.JAISWAL,J

Date:17.03.2015

Dsr

[\[1\]](#) (1985) 3 SCC 398