

WRIT PETITION No.2037 of 2011

Between:

.. Petitioner

AND

.. Respondents

The Court made the following:

-

-

-

-

-

-

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2037 of 2011

ORDER:

-

The petitioner was an employee of Civil Supplies Corporation (for short 'the Corporation') and at the relevant point of time, he was working as Grade-II Assistant at Sanga Reddy in Medak District. Alleging several illegalities in performance of the duties the petitioner was served with a charge memo dated 05.01.2007. On the basis of allegations and illegalities, the petitioner was placed under suspension on 18.03.2006 and vide proceedings dated 27.08.2007, he was reinstated into service. Several allegations are leveled against the employees working in Revenue Department and employees of the Corporation. A common enquiry was conducted against the employees working in the Corporation. In sofaras the petitioner is concerned though four charges were leveled against him, the enquiry officer held only charges 3 and 4 as proved.

2. Based on the findings recorded by the enquiry officer the disciplinary authority imposed the punishment vide his order dated 02.06.2010 withholding two annual grade increments with cumulative effect and also treated the period of suspension as not on duty.

3. Learned counsel for the petitioner submits that the petitioner is only concerned with verification of stocks received from the FCI godowns and dispatching of stocks to MLS Point. On receipt of stock from the FCI godown, petitioner was satisfied that the stocks were tallying with receipt of stock register and dispatch as entered in the relevant documents and therefore he has dispatched stocks. According to learned counsel, petitioner was not required to do

anything before the verification, once the stocks tallied with the receipt and dispatch entries. Not accepting the said defence and imposing punishment on the petitioner amounts to arbitrary exercise of power.

4. Learned counsel further contends that even assuming that there is some basis in the allegations, what is alleged is that the petitioner gave scope for misappropriation of rice stocks and therefore he could not have been visited with such a severe punishment. He also submits that the order impugned is liable to be set aside, as petitioner was not involved in diversion of stocks by the revenue and civil supply officers and no allegation of his involvement was made in such diversion and as such the punishment ought not to have been imposed.

5. Learned counsel for the respondent-Corporation submits that the punishment imposed is in valid exercise of power and there is clear dereliction of duty by the petitioner. If only the petitioner was alert, the stocks could not have been diverted to black marketing and therefore, the disciplinary proceedings were validly taken up against the petitioner and that the punishment imposed is justified.

6. It appears from the material on record that stocks which were received from the godown were diverted at MLS point to black market without taking those stocks to the fair price shops. The Corporation is mainly responsible for distribution of various food items to fair price shops and daily provisions to the needy people. The petitioner, working in the cadre of Grade-II Assistant, it is his primary responsibility to verify the stocks received from the FCI godown and stocks dispatched to MLS Point. He cannot say that he has to perform such scrutiny mechanically. The petitioner cannot take the defence saying that the stock received and stock dispatched have tallied and therefore he was not responsible to do anything further.

7. At this stage it is appropriate to extract Charge Nos.3 and 4.

CHARGE NO.3: *That he failed to bring to the notice of the Supervising officers about the over writing and manipulation in the goods received*

register while certifying the receipts by the MLS Point Incharge, Siddipet and gave scope for Misappropriation of rice stocks.

-

CHARGE NO.4 : *That he failed to reconcile issues under SGRY with reference to the allotment orders of the competent authority which has caused misappropriation of 160 Mts. Rice through bogus release orders at MLS Point, Sangareddy.*

8. On perusal of the 3rd charge, it is clear that there were over writings and manipulations in the goods received register. This manipulation and over writings ought to have alerted the petitioner to have a more serious scrutiny and to report the matter to the higher authorities. On the contrary, the petitioner simply allowed the stocks to be dispatched. Petitioner admits the fact that he did not observe the over writing and manipulation. This defence cannot be countenanced. The explanation submitted by the petitioner on charge No.3 was not accepted by the enquiry officer and held him guilty. As noticed by the disciplinary authority, if only petitioner was alert in observing the overwriting and manipulation, the consequential diversion of stocks to black market would not have occurred.

9. In the 4th charge it is also alleged that petitioner failed to reconcile issues under SGRY with reference to the allotment orders of the competent authority and if such reconciliation was properly done, there could not have been misappropriation of 160 metric tones of rice through bogus release orders at MLS point, Sanga Reddy.

10. With reference to charge no.4 the defence of the petitioner was that the reconciliation of the stocks was looked into by the accountant and therefore, he could not watch the large scale releases in any particular MLS point. His explanation of not verifying the wheat releases was not accepted by the enquiry officer. The enquiry officer held that the mandal wise allotment under SGRY were not available and he should have obtained the allotment orders before processing such transport bills for payment and it was therefore, held that only if

the allotment orders are available he ought to have proceeded to the next step and therefore, found fault with the release of stocks.

11. As noticed by the disciplinary authority in Page No.3 of his order, the petitioner failed to discharge his duties as listed thereunder. For convenience, it is useful to extract the same which read as under:

1. To verify the ROs under SGRY as per instructions vide in HO Circular No.PDS.1(26)/2002, dt.15.05.2002.
2. To verify releases of wheat with reference to allotment made by the Collector(CS) and the MRO, Sangareddy as communicated in HO Cir.No.PDS.1 (26)/2002, dt.15.05.2002.
3. To do 100% reconciliation of release of rice under SGRY as per HO Cir.No.PDS/FFWP.1(48)/2002, dt.19.10.2002.
4. To verify the genuineness of ROs received from incharge MLS Points in respect of releases made under SGRY wheat, sugar and rice under PDS, Mid-day-Meals and Annapurna Schemes.
5. To initiate action for obtaining confirmation certificates from incharge MLS point and also MROs.
6. To bring it to the notice of supervisory Officers about over-writings, manipulations in ROs, abnormal releases in wheat.
7. To bring it to the notice of supervising Officers about the unauthorized ROs with forged signatures of MROs.

12. Looking at the nature of the allegations leveled against the petitioner, the findings recorded by the enquiry officer, and the order of disciplinary authority, it cannot be said that petitioner is not guilty of the delinquency alleged. There is sufficient material on record in support of the decision of disciplinary authority. This Court cannot go into the merits of the findings recorded by acting as appellate authority. It is not the case of the petitioner that he was not given due opportunity in proving his innocence.

Therefore, I see no merit in the contentions of the petitioner.

13. 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 dismissed.

P.NAVEEN RAO, J

19th July, 2016
Rds