

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 9029 of 2011

Date: 14.09.2016

Between :

M.Ramesh s/o. M.Kaseepathi,
Aged about 49 years, Occu: Sr.Assistant
(under termination), R/o. H.No.723,
LIG, KPHB, Colony, Kukatpally,
Hyderabad.

.... Petitioner

And

Government of Andhra Pradesh,
Women & Chief Welfare & Disabled
Welfare Department, AP Secretariat,
Hyderabad, rep. by its Principal
Secretary and Ex-officio Chairperson,
AP Women's Co-op. Finance Corporation
and another.

.... Respondents



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ORDER:

Petitioner entered the service as Typist in the year 1992 earned his promotions as Senior Assistant, Office Superintendent and Assistant General Manager. Petitioner challenges the order of termination dated 24.2.2011 passed in pursuant to the disciplinary action initiated against him.

2. Heard Sri J.Satya Prasad, learned senior counsel, holding for Sri L.V.S.Nagaraju, learned counsel on record for petitioner, learned Government Pleader for respondent No.1 and no representation for 2nd respondent.

3. Vide Memo dated 05.05.2010, three charges were framed against the petitioner and Smt V.Mangaseshamamba. The sum and substance of the allegations against the petitioner and co-delinquent were, micro finance files were processed between May and June 2006 in gross violation of the resolutions of the Managing Committee and that they are responsible for irregular sanction and release of loans amounting to a tune of Rs.1.94 crores without proper documentation and without approval of Government (charge No.1); gross negligence in discharge of duties and thereby responsible for irregular sanction and disbursement of the amounts (charge No.2); and connived with the beneficiaries and other officials for personal gain and disbursal of the loans in violation of norms and procedures (charge No.3).

4. Petitioner denied the allegations made against him. Not satisfied with the explanation submitted by the petitioner and

co-delinquent, enquiry officer was appointed. Enquiry Officer submitted his report on 27.12.2010. On the show cause notice enclosing the copy of the report of enquiry officer, petitioner filed his explanation dated 01.02.2011. Not satisfied with the explanation and holding the petitioner as guilty of the charges leveled against him, his services were terminated vide order dated 24.02.2011. Co-delinquent of the petitioner against whom similar allegations were made was also dismissed from service. She preferred appeal against her dismissal from service. Petitioner instituted this writ petition challenging the order of termination. However, during the pendency of the writ petition, petitioner filed appeal on 17.12.2013 before the Chairperson of the respondent corporation. Petitioner submitted a reminder on 28.05.2014. In the reminder, petitioner also placed reliance on the orders dated 15.05.2014 passed by the Chairperson on the appeal preferred by Smt V.Mangaseshamamba.

5. Sri J.Satya Prasad, learned senior counsel appearing for petitioner submitted that charges leveled against the petitioner as well as Smt V.Mangaseshamamba and the finding recorded by the enquiry officer are one and the same and identical punishment is imposed, whereas Smt V.Mangaseshamamba preferred appeal before the Appellate Authority and petitioner has invoked the jurisdiction of this Court. However, during the pendency of this writ petition, though petitioner submitted appeal, so far, his appeal is not considered, whereas appeal filed by the co-delinquent was considered and by orders dated 15.05.2014, the Appellate Authority modified the punishment of termination to that of stoppage of two annual increments with cumulative effect.

He would therefore submit that it is illegal and amounts to arbitrary exercise of power in not considering the appeal filed by the petitioner and not extending the similar benefits while considering the appeal filed by the co-delinquent employee. Since, charges are similar, findings are same, same benefit ought to have been extended to the petitioner. He would submit that petitioner has not committed any illegality in performance of his duties. Though, petitioner objected to the manner in which the loan applications were processed, the objections were brushed aside by the Managing Director and he directed the petitioner to process the applications. Petitioner has no option but to process the applications in view of the directions of the superior authority. He would submit that having noticed grave illegalities committed by the Managing Director, the Government ordered investigation, being dealt by the Anti Corruption Bureau and in the departmental proceedings, Managing Director was removed from service.

6. The record filed in the writ petition would disclose that same charges are leveled against the petitioner and Smt. V.Mangaseshamamba, co-delinquent. Common disciplinary proceedings resulted in penalty of termination/dismissal from service. The appeal filed by the co-delinquent was considered and having regard to the nature of the allegations made and proved, the Chairperson, vide her proceedings dated 15.5.2014 allowed the appeal filed by the co-delinquent to the extent of punishment imposed and modified the punishment to that of stoppage of two annual grade increments with cumulative effect. It is the specific assertion of the learned senior counsel that appeal filed by the petitioner is yet to be disposed of, though the co-delinquent appeal

was considered and orders are passed, by which time the appeal filed by the petitioner was also pending before the appellate authority.

7. Having regard to the submissions made and in view of the earlier orders passed by the Appellate Authority dated 15.05.2014 in the case of co-delinquent, the writ petition is disposed of, without expressing any opinion on merits, directing the Appellate Authority to consider the appeal preferred by the petitioner on 17.12.2013 followed by the reminder dated 28.05.2014 duly taking note of the orders passed in favour of Smt. V.Mangaseshamamba, co-delinquent, in proceedings No.4053/WP.A3/2013, dated 15.05.2014. It is open to the petitioner to raise additional grounds in support of the appeal filed by him on 17.12.2013. In case petitioner chooses to raise additional grounds, the appeal shall be disposed of within a period of six weeks from the date of receipt of additional grounds that may be filed. Petitioner shall submit additional grounds, if so advised, within a period of two weeks from today. If no additional grounds are raised within the time granted, the Appellate Authority shall consider the appeal and pass orders within six weeks from the date of receipt of copy of this order.

Miscellaneous petitions if any pending shall stand closed.

No costs.

JUSTICE P.NAVEEN RAO

Date: 14.09.2016
Tvkk/kkm

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