

THE HON'BLE SRI JUSTICE G.CHANDRAIAH
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

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W.P.NO.35421 OF 2015

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O R D E R (Per the Hon'ble Sri Justice G.Chandraiah)

Heard the learned Government Pleader for Services –I (A.P.) for the writ petitioners and the learned counsel for the 1st respondent.

2. The 1st respondent worked as Forest Range Officer at Kadiri Range of Ananthapur District and retired from service on 30.6.2004. While in service at Anantapur, the following charges were framed against him by proceedings dated 30.10.2003 of the Principal Chief Conservator of Forest, Andhra Pradesh:

Article No.1: That the charged officer has exhibited gross neglect of duty by booking excess expenditure than the works executed on the field and thereby misappropriated the Government amount to a tune of Rs.13,156/-.

Article No.2: That the charged officer has exhibited gross neglect of duty is not verifying the works properly before making payment and in connivance with the Forest Section Officers allowed them to misappropriate the Government funds to a tune of Rs.44,572/-.

3. After affording opportunity to the respondent, the enquiry officer submitted report holding the respondent not guilty for the 1st charge and guilty for the 2nd charge. In the meanwhile, the respondent retired from service. The respondent on receipt of the enquiry report, submitted his explanation and not being satisfied with the same and eventually, the Government by G.O.Ms.No.102, Environment, Forest, Science and Technology (for. IV) Department dated 2.11.2009 imposed penalty of 10 per cent cut in pension for a period of two years. Aggrieved by the same, the respondent filed O.A.No.2511/2011 on the file of Andhra Pradesh Administrative Tribunal, Hyderabad and by order dated 18.2.2014 the Tribunal disposed of the O.A. by setting aside the G.O.Ms.No.102 dated 2.11.2009. Challenging the same, the Government filed the present writ petition.

4. This court while admitting the writ petition on 4.11.2015 granted interim suspension of the impugned order of the Tribunal and the respondent filed vacate petition.

5. The learned Government Pleader for the writ petitioners submitted that the petitioner worked as Forest Range Officer at Kadiri Range of Anantapur District and

during the relevant period, he exhibited negligence in discharging his duties and therefore the charges were framed. He booked excess expenditure than the works executed in the filed and caused misappropriation of the Government funds and though under Section 155 of the A.P. Forest Code, he is responsible for execution of all works in his range jurisdiction, he recorded his check measurements in the M book, without dates and without verifying the works in the filed and thus allowed the misappropriation of Government funds. Out of the two charges, first charge was not proved and the enquiry officer based on evidence, found the respondent guilty of the second charge. She submitted that the Forest Section Officer remitted the irregular expenditure to Government and this clearly shows that the respondent, who is the Forest Range Officer failed to discharge his duties and maintain absolute integrity, devotion to duty and exhibited conduct unbecoming of a Government employee, and the same amounts to violation of Rule 3 of A.P.C.S. (Conduct) Rules, 1964. Considering all these circumstances, the disciplinary authority imposed the punishment of ten per cent cut in pension for a period of two years and the Tribunal without appreciating these circumstances, set aside the impugned G.O. imposing punishment and the same warrants interference of this court.

6. On the other hand, the learned counsel for the contesting 1st respondent supporting the impugned order, submitted that the Forest Section Officer alone was responsible for maintaining the M. Books and the check measurements and the respondent has nothing to do with such works and he submitted that concerned Forest Section Officer had paid the amount and there is no financial loss to the Government and further the charge relates to 2002 and the respondent retired from service on attaining the age of superannuation on 30.6.2004 and the order imposing punishment was issued in the year 2009 i.e., after a period of five years and, therefore, considering these circumstances, the Tribunal set aside the impugned punishment and that there are no justifiable grounds to interfere with the impugned order and the writ petition may be dismissed.

7. From the material on record, it could be seen that out of the two charges framed against the respondent, first charge remained unproved and the second charge with regard to exhibition of negligence by the respondent in discharging his duties, resulting in misappropriation of the Government funds, was proved. The Tribunal in the impugned order, did not interfere with the finding of the enquiry officer and it only considered the proportionality of the punishment imposed on the respondent. Having regard to the facts and circumstances, the Tribunal felt that the punishment imposed was disproportionate to the charged proved against the

respondent and, therefore, set aside the same. We do not find any reason to interfere with the impugned order of the Tribunal at this length of time and the writ petition is liable to be dismissed.

8. The writ petition is accordingly dismissed. No cost.

9. Miscellaneous petitions pending if any, shall stand closed.

G.CHANDRAIAH,J

U.DURGA PRASAD RAO,J

DATE:29--02—2016

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