

**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION No.4729 of 2011**

**Date: 29.08.2016**

-  
**Between:**

S.Sampath Kumar S/o S.Srinivasa Chari,  
Aged about 44 years, Occu: Work Inspector (Tech.)  
A.P.State Housing Corporation Ltd., Nizamabad,  
R/o. Qtr.No.63 LIGH II, A.P.Housing Board Colony(Old),  
Conteshwar, Nizamabad.

.....Petitioner

and

A.P.State Housing Corporation, rep.by its Managing  
Director, Urdugally, Himayath Nagar, Hyderabad  
and two others.

.....Respondents

The Court made the following:

**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION No.4749 of 2011**

**ORDER:**

While working as Work Inspector in Bhimgal Mandal of Nizamabad District, during the relevant period, petitioner was also entrusted with the additional responsibility of Kammarapalli Mandal. By proceedings dated 21.10.1999, 72 number of houses were sanctioned to Beedy workers of Manala village of Kammarapalli Mandal. The subject matter of disciplinary action relates to irregularities in undertaking construction of 72 houses. By proceedings dated 08.12.2006, petitioner was served with charge memo containing five charges. It appears, initially enquiry was conducted and enquiry officer submitted his report. Having regard to the larger implications, earlier enquiry report was annulled and fresh enquiry was ordered into the allegations leveled against the petitioner and three other officers i.e., Deputy Executive Engineer, Assistant Engineer and Senior Assistant. Enquiry Officer held charges leveled against the petitioner as proved. Based on the findings of the enquiry officer, the Executive Director vide his order dated 14.10.2010 imposed punishment of withholding of two annual grade increments with cumulative effect and also ordered for recovery of amount of Rs.3,47,775/-. Aggrieved thereby, petitioner filed this writ petition.

2. Heard Sri K.V.Seshagiri Rao, learned counsel for petitioner and none appeared for respondents.

3.1. Learned counsel for petitioner would submit that disciplinary action is liable to be set aside on the sole ground that there was inordinate delay in initiating the disciplinary proceedings on the issue of construction of houses made in the year 1999, whereas charge

memo was drawn on 08.12.2006 i.e., after more than seven years. On account of delay in initiation of the disciplinary proceedings, grave prejudice was caused to petitioner.

3.2. He would further submit that petitioner was not responsible for recording in Measurement Book (M-Book). The Assistant Engineer is the responsible officer. At the instance of Assistant Engineer, being the superior authority, petitioner was compelled to make relevant entries in M-Book. However, he did not authenticate the entries made. He would further submit that petitioner was forced to sign on the statement, where requisition is made for making payments in one go to all the beneficiaries' instead of making payments individually. He, therefore, submit that petitioner is no way concerned to the alleged irregularities and he was unnecessarily implicated and visited with severe penalty.

3.3. He would further submit that by proceedings dated 09.12.1999, petitioner was transferred out of the original Mandal as well as incharge Mandal and he was relieved on 19.12.1999 and joined in the new place on 20.12.1999. He was no way concerned to what happened after his transfer order and he was unnecessarily implicated.

4. In the instant case, the alleged incident relates to the year of 1999 and the disciplinary authority initiated proceedings in the year 2006, probably after the issue was brought to the notice of the Managing Director on the alleged irregularities. A bare perusal of charges would show that one allegation was, out of 72 houses sanctioned, only 38 houses were completed, 31 houses were not even constructed and three were partly constructed, whereas full payments were recommended and made. The factum of construction of houses can be visible and, therefore, it cannot be said that on account of delay in initiation of the disciplinary proceedings, prejudice was caused to the petitioner. Further allegation was that entries were made in M-Book

and recommendations were directly made to the Deputy Executive Engineer, by passing the Assistant Engineer, and all this was done by the petitioner in connivance with the Deputy Executive Engineer. This piece of allegation is based on record. It is not the case of the petitioner that relevant records were misplaced or not available which disentitled him to submit his defence effectively. A perusal of the explanation submitted by petitioner, in pursuant to the show cause notice, would show that petitioner was making submissions on merits and was not complaining that he was denied of reasonable opportunity on account of delay. Thus, disciplinary proceedings cannot be nullified on the ground of delay.

5. On M-Book entries, his only defence was, he was made to write M-Book entries at the instance of the Assistant Engineer. In support of the said contention, no material was brought on record to show that he was not responsible. Therefore, it cannot be said that finding recorded by the enquiry officer that petitioner colluded with the Deputy Executive Engineer to release the amounts based on the M-Book entries made by him.

6. As seen from the material placed on record, even though construction was not made, recommendation for sanction was made. Further allegation, which is proved, was that according to the scheme, particular specifications are mentioned and in deviation of those specifications, bigger houses were constructed. As the field level officer representing respondent Board, it is his primary duty to ensure that no such deviations can be made and whenever there are deviations, he has to bring to the notice of the higher officers. It appears from the record that no such deviations are brought to the notice of the higher authorities.

7. It is not the case where the petitioner was denied of reasonable opportunity. The documents on record would show that sufficient

opportunity was afforded to the petitioner and all contentions of the petitioner were considered in proper perspective and punishment was imposed taking note of the allegations made and proved. It cannot be said that punishment imposed against the petitioner was excessive or disproportionate.

8. The material on record would disclose that on account of illegal actions of petitioner, the respondent Board was subjected to heavy loss. The loss was quantified and distributed, and to the extent petitioner was found responsible, liability was fixed on the petitioner. Thus, in the light of the finding recorded, it cannot be said that respondent Board was not competent to recover the amount.

9. I, therefore, see no merit in the writ petition and is accordingly dismissed. However, having regard to the fact that this Court granted stay of recovery of the amount, by order dated 20.8.2011, the respondent Board is directed to effect the recovery of the amount from the petitioner in 36 equitable monthly instalments.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

---

**JUSTICE P.NAVEEN RAO**

Date: 29.08.2016

*kkm*

**HON'BLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION No.4729 of 2011**

-  
**Date: 29.08.2016**

*kkm*