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THE HON'BLE SRI JUSTICE A.V. SESA SAI

W.P.No.4057 of 2010

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“To issue a writ of Mandamus or any other appropriate writ, order or direction, declaring the procedure adopted by the 4th respondent in the conduct of Enquiry and submitted an enquiry Report dt 7-6-2008 proceedings Lr NO EE/Vig-3/3/2005/WGL and the consequent impugned order procds No Vig (20) 7130/WGL/2008 dt 13-10-2008 issued by the 2nd respondent and the Memo Proceedings No Vig (2)/7130/WGL/2008 dt 8-1-2010 passed by the 1st respondent as illegal, arbitrary in violation of principles of natural justice and contrary to the procedure contemplated under Rule 20 of APCS (CC&A) Rules 1991 and set aside the orders dt 13-10-2008 and direct the respondents to reinstate the petitioner same”

2. Heard Sri C.Raghu, learned counsel for the petitioner and Sri T.Sudhakar Reddy and Sri C.Buchi Reddy, learned counsel, appearing for the respondents apart from perusing the material available on record.

3. While working as Work Inspector, petitioner was served with a charge-sheet issued by the Managing Director, A.P. State Housing Corporation Limited vide proceedings No.Vig(2)/7130/WGL/03, dated 03.08.2003. Responding to the said charge-sheet and the charges contained therein, petitioner submitted an explanation, dated 13.12.2004. Subsequently an Enquiry Officer was appointed, who conducted enquiry and submitted a report on 07.06.2008.

4. Pursuant to the submission of the said report, the second respondent Managing Director issued a show-cause notice vide proceedings No.Vig-(2)/7130/WGL/2008, dated 14.08.2008, asking the petitioner to

submit an explanation. On 01.09.2008, petitioner submitted an explanation pointing out that the Disciplinary Authority did not furnish a copy of the enquiry report along with the show-cause notice as stipulated under the A.P. Civil Services (CC&A) Rules, 1991. Thereafter, the Managing Director passed an order vide proceedings No.Vig (2)/7130/WGL/2008, dated 13.10.2008, awarding punishment of removal from service apart from ordering recovery of Rs.1,10,000/- with 12% penal interest. Aggrieved by the said order of punishment, petitioner filed an appeal on 01.12.2008 before the Chairman, Board Committee, A.P. State Housing Corporation Limited, Secretariat, Hyderabad. By way of Memo No.Vig.(2)/7130/WGL/2008, dated 08.01.2010, the Executive Director, A.P. State Housing Corporation Limited, informed the petitioner that the appeal was placed before the Board and the Board in its meeting held on 21.12.2009 has examined the matter and resolved to reject the appeal petition as the same being devoid of merits and confirmed the punishment awarded.

5. In the above background, challenging the order of punishment dated 13.10.2008 and the Memo dated 08.01.2010, as illegal, arbitrary and violative of principles of natural justice and contrary to the procedure contemplated under the A.P. Civil Services (CC&A) Rules, 1991, the present writ petition came to be filed.

6. It is contended by the learned counsel for the petitioner that the impugned order of punishment passed by the Managing Director, inflicting the punishment of removal from service as confirmed by the first respondent and as communicated vide Memo dated 08.01.2010 is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India and opposed to the very spirit and object of the provisions of A.P. Civil Services (CC&A) Rules, 1991. It is the further submission of the learned counsel that though it was brought to the notice of the Disciplinary authorities by way of explanation dated 01.09.2008, with regard to failure to furnish the enquiry report, the Disciplinary authority, without furnishing a copy of the enquiry report,

passed the orders of punishment. It is the further submission of the learned counsel that even the appellate authority did not assign any reasons for rejection of the appeal.

7. The material available before this Court clearly discloses that after conclusion of the enquiry and after submission of the enquiry report by the enquiry officer, when the petitioner was asked to show-cause for the proposed punishment by way of notice dated 14.08.2008, the petitioner herein submitted a representation/explanation categorically denying all the allegations and pointing out the procedural infirmities occurred during the course of enquiry before the enquiry officer. It is also evident from the said explanation that the petitioner herein specifically brought to the notice of the disciplinary authority with regard to non-supply of enquiry officer's report along with the show-cause notice. Despite the same, the disciplinary authority/Managing Director/ Vice-chairman, without even referring to the contents of the explanation and without saying anything with regard to the non-supply of the enquiry report, imposed the punishment of removal from service apart from ordering recovery of Rs.1,10,000/- with 12% penal interest vide proceedings dated 13.10.2008. It is also evident from the grounds of appeal filed by the petitioner before the appellate authority that the petitioner categorically submitted the explanation article wise, but the appellate authority also failed to consider the same. In view of these reasons, this Court absolutely has no scintilla of hesitation nor traces of doubt to hold that the impugned order of punishment issued by the Vice-chairman and Managing Director, vide Memo.No.Vig (2)/7130/WGL/2008, dated 13.10.2008, as confirmed by the appellate authority and as communicated vide Memo No.Vig.(2)/7130/WGL/2008, dated 08.01.2010, cannot be sustained in the eye of law.

8. For the aforesaid reasons, writ petition is allowed, setting aside the impugned order of punishment issued by the Vice-chairman and Managing Director, vide Memo.No.Vig (2)/7130/WGL/2008, dated 13.10.2008, as confirmed by the appellate authority and as

communicated vide Memo No.Vig.(2)/7130/WGL/2008, dated 08.01.2010. However, it is kept open for the 2nd respondent Managing Director to proceed further pursuant to the Enquiry Officer's Report already submitted and pass appropriate orders, in accordance with law, in the light of the observations made *supra*. As a sequel, miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V. SESA SAI, J

Date:13.7.2016

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Dated 13th July, 2016

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