

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.36378 of 2016

ORDER:

Heard counsel for the petitioner and the Government Pleader for Services appearing for respondents.

2. In this Writ Petition, petitioner has assailed the action of the respondents in keeping pending the disciplinary enquiry initiated against the petitioner vide charge memo dt.02.07.1996 in Rc.No.A/393/96 of the 2nd respondent, and seeks to quash the said memo on the ground that there is inordinate delay in concluding the disciplinary proceedings.

3. Petitioner was working as a Warden of the Government Social Welfare Hostel, Warangal. On 21.12.1995 when there was surprise visit by the Anti Corruption Bureau(ACB) Officials, during the said period, he was also in charge of Social Welfare Boys Hostel, Toopran and in the absence of the petitioner, the ACB officials verified the record of the Government Social Welfare Hostel, Warangal and found certain irregularities which were reported to the 2nd respondent.

4. The impugned charge memo was then issued to the petitioner on 2.07.1996 with the following charges:

- “1. That he was absent on the day of surprise check by A.C.B.,
2. Movement Register is maintained upto 19.12.95. There is no entry on 21.12.95 (the date of visit by A.C.B.) to know his whereabouts. When enquired he was not available at his residence also.
3. On 20.12.95 the Warden left the hostel at 6.00 p.m. and did not turn up, as reported by boarders.
4. That he is in the habit of attending the hostel on alternate days.

5. Bunch of leave letters found without any endorsement of A.S.W.O., regarding sanction of leave. Thus it was obvious to say that the said warden was leaving the hostel at his will simply leaving the leave letters and managing his full attendance.
6. Actual strength of the boarders is 100 according to the list displayed on N.B. on the date of visit of A.C.B., only 48 boarders are present and their names were listed out separately.
7. A.C.B. Officers found a bunch of improper leave applications of boarders, without sanction/endorsement of Warden, which clearly shows that Warden was maintaining ghost boarders.
8. Therefore, Sri S.Rajesham, Warden is hereby directed to explain as to why suitable disciplinary action should not be proposed on the charges levelled against him. He should offer his defence within (15) days from the date of receipt of the memo failing which it will be construed that he has no explanation to offer in his defence and further action will be taken on the material available."

5. Petitioner submitted a detailed explanation to the charge memo on 17.07.1996 denying the charges.

6. Thereafter, the 2nd respondent appointed the Revenue Divisional Officer, Siddipet as Enquiry Officer directing him to associate with the A.C.B. officers in conducting the departmental enquiry against the petitioner by letter. Dt.02.01.1997.

7. On 18.05.2016, almost 20 years after the charge memo was issued to the petitioner, the Enquiry Officer submitted the enquiry report to the 2nd respondent giving a finding that the petitioner neglected his legitimate duties and was absent on 21.12.1995 during the visit of the A.C.B. officials. He further stated that the stocks in the hostel could not be verified because of his absence and it was not found, whether he is at house or

ASWO office. It is also stated that the petitioner simply placed C.L application on the table of the concerned officer without getting sanction endorsement from the Higher Officer and he did not attend the hostel on 07.08.1995., 19.08.1995, 07.09.1995, 09.11.1995, 17.11.1995 and 19.12.1995.

8. After the enquiry report was submitted, the file was circulated to the 2nd respondent for taking further action against the petitioner and the 2nd respondent has not yet taken decision thereon.

9. Counsel for the petitioner contends that the delay in concluding the enquiry for a period of 20 years renders the entire proceedings arbitrary and the charges levelled against him in the impugned charge memo are liable to be quashed. He placed reliance on the judgment in ***P.V.Mahadevan vs. MD.T.N.Housing Board***¹ and ***State of Andhra Pradesh v. N.Radhakrishna***². He also relied upon the orders passed by the Administrative Tribunal in a batch of similar cases on 01.12.2015 in O.A.No.5980 of 2015 and batch.

10. In the counter affidavit filed on behalf of the respondents it is stated that the Revenue Divisional Officer, Siddipet was appointed as an enquiry officer to associate with the ACB Officials in the enquiry initiated by proceedings dt.02.01.1997, that several reminders have been issued to the Enquiry Officer from 1997 to 2016 to complete the enquiry and to submit a

¹ 2005(6) SCC 636

² 1998(2) SLR P.788

detailed enquiry report and that the enquiry report was submitted on 18.05.2016,

11. However, no specific reason is assigned as to the cause for the delay in concluding the enquiry proceedings.

12. A perusal of the judgments in **P.V.Mahadevan's case** and **N.Radhakrishna's case** referred to supra indicate that a delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings. In a situation where there is no explanation for the delay and the delay is abnormal having regard to the nature of the charge and its complexity, such unexplained delay causes prejudice to the delinquent employee, particularly, when he is not to blame for the delay.

13. The A.P. Administrative Tribunal in its order dt.01.12.2015 in O.A.No.5980 of 2015 and batch has also taken a similar view in respect of certain employees who were issued charge memos in the year 2000 with regard to the incidents which took place between 1990 to 1995 and the disciplinary proceedings were not completed for about 15 years from the date of issuance of the charge memos.

14. Similar view is also taken in O.A.No.6104 of 2011 and batch by the A.P. Administrative Tribunal decided on

19.10.2012 which was confirmed in W.P.No.1626 of 2013 and batch by this Court.

15. I am also of the considered opinion for reasons alike that the inordinate delay in continuing disciplinary proceedings from 02.07.1996 till today, which is more than 20 years, has caused serious prejudice to the petitioner. Therefore the impugned charge memo dt.02.07.1996 issued by the 2nd respondent is quashed and the respondents are directed to release all the consequential benefits to the petitioner to which he is entitled to, within a period of three (03) months from the date of receipt of a copy of this order. There shall be no order as to costs.

16. Consequently, miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

21st November, 2016.
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M.S.RAMACHANDRA RAO, J

