HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.37062 of 2015

ORDER

This writ petition was filed seeking to declare the proceedings dated 20.10.2015 issued by the 3rd respondent imposing punishment of forfeiting two annual increments with cumulative effect and for recovery of Rs.1,29,889/- from the petitioner, as arbitrary and illegal.

The petitioner is working as Junior Assistant in 3rd respondent-Temple. Originally, he was appointed as Attender in the said temple on 1.1.1999. Later, he was promoted as Record Assistant in April, 2005. He was given in-charge of the Stores in September, 2014. In view of Godavari Pushkaralu from 14.7.2015 to 25.07.2015 in order to provide prasadam, the temple authorities have purchased provisions worth more than Rs.3.00 crores in May, 2015. The stock was received by the temple on 23.5.2015. The petitioner states that when he was on leave from 3.6.2015 to 7.6.2015, 11.6.2015 to 15.6.2015, 9.8.2015 & 10.8.2015, it appears that the 3rd respondent inspected the stores on 9.8.2015 and noticed some variation. In view of the said variation, the Executive Officer of the temple placed the petitioner under suspension vide proceedings dated 9.8.2015 and issued a notice to

him on the said date. On 10.8.2015, an Enquiry Officer was appointed and the petitioner submitted his explanation on 18.8.2015 to the said notice dated 9.8.2015. The Enquiry Officer issued notice on 29.08.2015 directing the petitioner to attend the enquiry on 1.9.2015 and accordingly, he attended before the Enquiry Officer. The Enquiry Officer, issued another notice on 15.9.2015 by adding eight more charges and directing the petitioner to submit his explanation. Accordingly, the petitioner submitted his explanation on 24.09.2015. The Enquiry Officer submitted his report on 29.9.2015 finding that the stock worth about Rs.9,40,267/- was found excess and the same has to be recorded in the books. He also reported that the stock worth Rs.2,14,759/- was found deficit and the same has to be recovered from the petitioner. The petitioner states that as the enquiry report is contradictory, the 3rd respondent appointed two Enquiry Officers vide proceedings dated 28.09.2015. Pursuant to the same, they submitted a report on 17.10.2015 and gave a finding that the stocks worth Rs.1,29,889/- was deficit in the stores and the same has to be recovered from the petitioner. Based on the said report, the 3rd respondent issued proceedings dated 20.10.2015 imposing punishment of forfeiting two annual increments with cumulative effect and also for recovery of an amount of Rs.1,29,889/- from the petitioner. Thereafter, the Executive Officer of the temple vide proceedings dated 20.10.2015 permitted him to join the duty and accordingly, he joined the duty on 31.10.2015. Challenging the order of punishment dated 20.10.2015, on the ground that the enquiry was not properly conducted as per Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 (for short 'the Rules') and imposition of major punishment is bad in law, the present writ petition was filed.

Counter-affidavit is filed by the 3rd respondent admitting the conduct of enquiry twice and recommending the recovery of an amount of Rs.1,29,889/- from the petitioner. There is no averment with regard to conduct of enquiry in accordance with the Rules.

In the absence of conducting proper enquiry against the petitioner and passing the order dated 20.10.2015 imposing major penalty, this Court is inclined to set aside the impugned order passed by the 3rd respondent and remanding the matter to the 3rd respondent for conducting proper enquiry in accordance with law by reiterating all the charges in one charge sheet and giving due opportunity to the petitioner before taking action against the petitioner.

Accordingly, the writ petition is allowed, the impugned order dated 20.10.2015 is set aside and the 3rd respondent is given liberty to conduct enquiry against the petitioner in respect of the allegations made against him on two earlier occasions resulting in passing the order dated 20.10.2015 and complete the same within a period of six months from the date of receipt of a copy of this order. At this stage, it is submitted by the learned counsel appearing for the 3rd respondent that the Enquiry Officer has already recovered the amount from the petitioner. In view of the same, the recovery of amount will be subject to further orders passed in the proposed enquiry. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

18th August, 2016
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