

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

WRIT PETITION No.4740 of 2003

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the order vide proceedings No.APBCL/IMLD/Pers/R.R-I/99, dated 09.06.2000 passed by the Joint Collector & Ex-Officio Executive Director, Andhra Pradesh Beverages Corporation Limited (APBCL) Depot, Ranga Reddy-I, second respondent herein, and the order passed by the Managing Director, APBCL, Hyderabad, first respondent herein, vide proceedings No.A4:18:2000/227, dated 15.02.2002.

The facts and circumstances leading to the filing of the present Writ Petition are as under:

Petitioner herein joined in the respondent Corporation as a Plant Supervisor on 23.02.1989 and later, he was promoted as Plant Supervisor Grade-I in the year 1994. Subsequently, he was posted as Stores Supervisor. While he was working in the said capacity, the disciplinary authority appointed the General Manager (Excise) as an Enquiry Officer. The Enquiry Officer so appointed issued a charge memo vide proceedings No.Enquiry/G.M.(Excise)-I/99, dated 18.11.1999, framing the following three charges against the petitioner:

CHARGE I:

That Sri K. Vanakumar, Stores Supervisor (U/S), IML Depot, RR-I, being a responsible officer has failed to handover the stocks physically when requested by the Depot Manager, IML Depot, RR-I on 18.8.99 and proceeded on ESI leave from 19.8.99 without handing over the charge of his post and sent the ESI Certificate along with (4) keys of IML Godown through Sri K. Ramulu, Hamali Worker, which shows his gross disobedience towards his super officers.

BASIS:

Report of the Depot Manager, IML Depot, RR-I, dated 20.8.99.

CHARGE II:

That Sri K. Vanakumar, Stores Supervisor, (U/S), IML Depot, RR-I has failed to discharge his legitimate duties honestly and faithfully by misappropriating the stocks valued Rs.8.00 lakhs (approximately), as detailed in the statement for his personal gains by committing an act of dishonesty.

BASIS:

1. Panchanama dated 19.8.99.
2. Report of the Depot Manager, IML Depot, RR-I, dated 20.8.99.

CHARGE III:

That Sri K. Vana Kumar, Stores Supervisor (U/S) IML Depot, RR-I has kept dues of stocks to the following retailers shown against their names which were certified by him on the back side of the ICDC with his dated signatures, which is highly irregular and violative of para 4.7 of Depot Operations Manual.

M/s. Sri Bhavani Wines, Gatkesar, Uppal. - One Case of O.T. whisky (O).

M/s. Swathi Wines, Maruthinagar. - Two cases of Sovereign whisky (N)

M/s. Ranganayaka Wines, Koheda.- Five cases of Moonlight Delux Brandy

BASIS:

1. Report of the Depot Manager, IML Depot, RR-I, No.APDCL;IML;RR-I;Pers:99: dt. 7.9.99 & 4.11.99.
2. Representation of M/s. Sri Bhavani Wines, LC.No.422, Kondapur, Ghatkesar, Circle Uppal, dated 7.9.99 along with xerox copy of ICDC No.6191, dated 17.8.99.
3. Representation of Sri V. Jaipal Reddy, M/s. Swathi Wines, L.C.No.197, Pochammagadda DRDL 'X' Roads, Maruthinagar, along with xerox copy of ICDC No.5693, dated 5.8.99.
4. Representation of Sri Ranga Reddy, M/s. Ranganayaka Wines, LC No.38, Koheda.

In response to the said charge memo and the charges contained therein, the petitioner submitted an explanation, denying the charges. Thereafter, the enquiry officer submitted his report on 25.04.2000.

After receipt of the above said enquiry report, the second respondent issued a show cause notice vide Lr.No.APBCL/IMLD/Pers./R.R.-I, dated 17.05.2000, asking the petitioner to show cause as to why an amount of Rs.7,94,771.90 ps. should not be recovered and as to why he should not be dismissed from service under Rule 14(1)(f) of Section-I of APBCL (Conduct, Discipline and Appeal) Rules (hereinafter called "the Rules").

Responding to the said show cause notice, the petitioner submitted his explanation on 25.05.2000. Thereafter, the second respondent passed an order vide proceedings, dated 09.06.2000, dismissing the petitioner from service. Aggrieved by the said order, the petitioner filed appeal before the first respondent, on 17.08.2000. The first respondent/appellate authority issued proceedings vide Ref.No.A4:18:2000/227, dated 15.02.2002, dismissing the appeal filed by the petitioner while confirming the order of dismissal passed by the second respondent.

In the above background, challenging the validity and sustainability of order of dismissal passed by the second respondent and the order passed by the first respondent/appellate authority, the present Writ Petition came to be instituted.

On 20.03.2003, this Court ordered rule nisi. Responding to the rule nisi issued by this Court, a counter-affidavit deposed by the first respondent is filed, denying the averments mentioned in the affidavit filed in support of the Writ Petition and justifying the impugned action.

Heard Sri Madiraju Srinivasa Rao, learned counsel for the petitioner and Sri G. Ravi Mohan, learned Standing Counsel for the respondent Corporation apart from perusing the material available before this Court.

Broadly, there are three contentions raised by the learned counsel for the petitioner in the present Writ Petition. They are:

1) The Joint Collector is not competent to take disciplinary action against the petitioner as per the Andhra Pradesh Beverages Corporation (Staff) Regulations, 1987 (hereinafter called “the Regulations”).

2) No proper opportunity was given to the petitioner by the enquiry officer during the course of enquiry.

3) The enquiry officer has no power to frame charges and the enquiry conducted and the order of punishment passed on the basis of the said enquiry, are vitiated thereby.

In support of his averments and contentions, learned counsel for the petitioner places reliance on the decision in the case of **Government of Andhra Pradesh v. M.A. Majeed**¹ and the order in Writ Petition No.25868 of 2012 dated 03.06.2016.

On the contrary, the learned Standing Counsel for the respondent Corporation strenuously contends that the contentions of the learned counsel for the petitioner are neither sustainable nor tenable in view of the fact that the respondents conducted enquiry and inflicted the punishment strictly as per the Regulations and by completely adhering to the principles of

¹ 2006 (1) ALT 661

natural justice and in view of the same, the present Writ Petition is not maintainable and the petitioner is not entitled for any relief from this Court under Article 226 of the Constitution of India and that the respondents adopted the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules (hereinafter called “the CCA Rules”) only in the year 2009 and as per the Regulations, governing the service conditions of the employees of the respondent Corporation, the enquiry officer can also be authorized to frame charges, as such, the contention of the learned counsel for the petitioner deserves to be rejected. It is the further contention of the learned Standing Counsel that in the absence of any explanation as to the prejudice caused to him, there cannot be any complaint by the petitioner with regard to the violation of principles of natural justice. It is also the contention of the learned Standing Counsel that the issue of competence of the enquiry officer to frame charges is not referred to in the Writ Affidavit, as such, it is not open for the petitioner to agitate the same. The learned Standing Counsel for the respondent Corporation takes support of the judgments reported in **K.L. Tripathi v. State Bank of India and others**² and **Sarv U.P. Gramin Bank v. Manoj Kumar Sinha**³.

² AIR 1984 SUPREME COURT 273

³ 2010(3) SCC 556

In the above background, now, the points that emerge for consideration of this Court in the present Writ Petition are -

- 1) Whether the Joint Collector/second respondent has jurisdiction to take disciplinary action against the petitioner?
- 2) Whether the respondents afforded reasonable opportunity to the petitioner during the course of enquiry and that whether the respondents followed the principles of natural justice in their true letter and spirit?
- 3) Whether the enquiry officer is authorized to frame charges?
- 4) Whether the petitioner is entitled for any relief from this Court under Article 226 of the Constitution of India?

POINT No.1:

In order to consider this point and to arrive at a just conclusion, it would be appropriate and apposite to refer to the Regulations, which govern the service conditions of the employees of the respondent Corporation. The petitioner falls under Group 'B' Officers and Part – II of the Regulations deals with the authorities empowered to appoint and the same stipulates as under:

VII. CLASSIFICATION OF STAFF:

1. The Staff of the Corporation both in the Corporate Office and in the District Units shall be grouped as below:

Group 'A' .. Officers (Assistant Managers & Above)

Group 'B' .. Staff (Employees below the rank of Assistant Managers)

Group 'C' .. Workers (Last Grade Employees Operators, Attenders, Drivers)

VIII. AUTHORITIES EMPOWERED TO APPOINT:

The Appointing Authority to the Services of the Corporation shall be as follows:

- (a) For Group 'A' Officers: Managing Director (Subject to approval of Board for Officers whose maximum in Pay Scale exceeds Rs.4,000/-)
- (b) For Group 'B' Officers: In case of Corporate Office Executive Director, subject to approval of M.D. in cases where any relaxations are made. In respect of Units-Joint Collector.
- (c) For Group 'C' Workers: Manager (P&A) in Corporate Office and District Manager in District Units.

As per the above clause, the appointing authority for Group 'B' Officers working in the corporate office of the respondent Corporation is the Executive Director subject to approval of Managing Director and Joint Collector in respect of Units.

While referring to the above provisions, it is the contention of the learned counsel for the petitioner that since the petitioner

was appointed in the corporate office by the Executive Director with the approval of Managing Director, the competent authority is the Executive Director but not the Joint Collector, who is the competent authority only for the Officers working in the Units. The said stand is disputed by the learned Standing Counsel for the respondent Corporation stating that though he was appointed by the Executive Director as per the rules prevailing at the relevant point of time, the petitioner throughout his career worked in Units only and to support the same, learned Standing Counsel has drawn the attention of this Court to paragraphs 2, 3, 4 and 6 of the counter-affidavit, which clearly demonstrate the circumstances under which the appointment order was given under the name of Executive Director. Even at the relevant point of time, when the proceedings were initiated against the petitioner herein, he was working in Ranga Reddy District Unit. No material is placed by the petitioner to show that he was appointed for the corporate office only. The above information clearly discloses that the petitioner was working in the Units only and not the corporate office. It is also significant to note that appointment order dated 23.02.1989 also shows that the petitioner had been selected for appointment to the post of Plant Supervisor in the Corporation but not in the corporate office of the respondent Corporation. Therefore, it can now be safely concluded that the Joint Collector/second respondent is the

disciplinary authority so far as the post which the petitioner was holding is concerned, as such, the contention of the learned counsel for the petitioner is rejected. Accordingly, this point is answered in favour of the respondents and against the petitioner, holding that the Joint Collector is the disciplinary authority and is competent to impose punishment on the petitioner.

POINT No.2:

The disciplinary authority appointed the General Manager (Excise) as enquiry officer and the enquiry officer issued a charge memo dated 18.11.1999, framing as many as three charges, as extracted above.

It is very much evident from a reading of the proceedings dated 04.02.2000 of the enquiry officer that on the said date, the enquiry officer recorded the statements of as many as 10 persons and the said proceedings further state that the charged officer informed the enquiry officer that he did not want to cross-examine the witnesses and the charged officer was given time till 11.02.2000 for furnishing additional explanation if any. The information on record further discloses that the petitioner submitted his list of witnesses on 04.02.2000 and on 05.02.2000, he submitted a representation to the disciplinary authority/second respondent and the relevant paragraphs of the said representation are reproduced below:

“Examination of the witnesses commenced on 04.02.2000. The enquiry officer recorded the evidence of the witnesses one after the other during the morning session. I was not given any opportunity to cross-examine the witnesses during the above time. The enquiry officer stated that he would continue the enquiry in the afternoon also. In the afternoon session, the enquiry officer has supplied me the copies of the statements of the witnesses with a covering letter. He has taken my signature on the covering letter to which the statements enclosed. He immediately left the place.

When I read the covering letter, to my shock and surprise, I found that the enquiry officer has stated that ‘delinquent officer’ does not want to cross-examine. I humbly submit that I categorically expressed my intention to cross-examine. The above version of the enquiry officer clearly discloses that he is not conducting the enquiry with open mind.

In the above circumstances, it is submitted that the enquiry officer may be changed or in the alternative, I may be permitted to be represented by a lawyer and the enquiry officer be directed to permit me (on my behalf) to cross-examine the witnesses who have given their statements on 04.02.2000.

Without any justification, the enquiry officer has permitted and recorded the statements of the individuals, who are not in the list of witnesses. The above also discloses itself that the enquiry officer is conducting the enquiry in violation of the rules and procedures perhaps with an ulterior motive.”

Despite receipt of the said representation, the second respondent/disciplinary authority did not respond and on the other hand, the enquiry officer vide letter bearing No. Enquiry:G.M.(E)-I:99: dated 05.02.2000 rejected the request of the petitioner by assigning the following reasons:

“On the day of oral enquiry, he has informed that he is not interested in cross examining and that he may be given the copies of the statements of the various witnesses who attended the oral enquiry. Accordingly, copies were furnished to him.

Therefore, the question of permitting any cross-examination at a later date will not arise. He was clearly informed that he may produce any witnesses on his behalf on the day of the enquiry, while making it clear that any extension of time for producing the witnesses or evidence will not be allowed, vide reference 3rd cited. Therefore, any request at this juncture for examination of any witnesses on his behalf will not be entertained.

The Charged Officer was furnished with the copies of documents requested by him along with copies of panchanama dated 19.08.1999 and the list of witnesses with instructions to submit the list of witnesses to be examined on his behalf. The Charged Officer should have availed the opportunity and requested for summoning the following witnesses who were signatories of the panchanama.

1. Shri B. Srinivas, Stores Operator
2. Shri Arjun, Stores Operator

The delinquent officer has not availed the opportunity at the appropriate time and has not produced any witness on the date of the oral enquiry nor furnished any list of witnesses to be examined at the appropriate time.

Hence, his request cannot be considered at this stage. However, the Charged Officer may submit further reply if any on or before 11.2.2000 as already instructed in the reference 5th cited.”

On 08.02.2000, the petitioner made a representation to the second respondent stating that the enquiry officer was not permitting him to cross-examine any of the witnesses who gave statements on 04.02.2000 and simply rejected the list of

witnesses on behalf of the petitioner and eventually, in the said representation, a request was made to change the enquiry officer or in alternative to permit the petitioner to be represented by a lawyer and to direct the enquiry officer to permit the petitioner to cross-examine the witnesses who gave their statements on 04.02.2000 and also to record the statements of witnesses who were proposed on his behalf. But the second respondent failed to respond to the said representation also. Eventually, the second respondent, basing on the enquiry officer's report, passed an order of dismissal. In the considered opinion of this Court, the mode and manner in which the enquiry officer proceeded with the enquiry is in total violation of principles of natural justice.

Coming to the judgments on which the learned Standing Counsel for the respondent Corporation places reliance on the decision in **K.L. Tripathi** (2 supra), the delinquent employee did not give any explanation nor he disputed any of the facts nor he requested for any opportunity to call for any evidence to rebut the facts nor he requested for any chance to cross-examine the witnesses after examining himself or any other witness in support of his defence.

But, in the instant case, as observed supra, the petitioner made representations to the second respondent for proper opportunity and complained against the mode and manner in

which the enquiry officer was proceeding with the enquiry. Therefore, the said judgment would not render any assistance to the respondent Corporation.

In the case of **Sarv U.P. Gramin Bank** (3 supra), the complaint was with regard to the non-supply of enquiry officer's report. The Hon'ble Apex Court in the said judgment categorically found that unless the delinquent is able to show that non-supply of report of the enquiry officer had resulted in prejudice or miscarriage of justice, an order of punishment cannot be held to be vitiated and held that whether prejudice had been caused to the delinquent employee or not depends upon the facts and circumstances of each case and no rule of universal application can be laid down.

In the instant case, the grievance of the petitioner is with regard to the manner in which the enquiry officer proceeded with the enquiry but not the non-supply of enquiry officer's report. Therefore, the said judgment also would not help the respondent Corporation.

The analysis of information available before this Court demonstrates, in clear terms, that the mode and manner in which the enquiry was conducted by the enquiry officer is in violation of the principles of natural justice. Accordingly, this point is

answered in favour of the petitioner, holding that the enquiry is vitiated due to non-adherence to the principles of natural justice.

POINT No.3:

The contention of the learned counsel for the petitioner is that the enquiry officer has no power to frame the charges and in elaboration of the same, it is submitted that as per the CCA Rules, which have been adopted by the respondent Corporation in the year 2009, the disciplinary authority alone is competent to frame charges. Rule 20 (1) to (7) thereof reads as under:

“Rule 20. Procedure for imposing major penalties:- (1) No order imposing any of the penalties specified in clauses (vi) to (x) of Rule 9 shall be made except after an inquiry held, as far as may be, in the manner provided in this Rule and Rule 21 or in the manner provided by the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 or the Andhra Pradesh Lokayukta and Upa-lokayukta Act, 1983, where such inquiry is held under the said Acts.

(2) Whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government Servant, it may itself inquiry into, or appoint under this Rule, as the case may be, authority to enquire into the truth thereof.

Explanation:- Where the Disciplinary Authority itself holds the inquiry, any reference to the Inquiring Authority shall be construed as a reference to the Disciplinary Authority.

(3) Where it is proposed to hold an inquiry against a Government Servant under this Rule and Rule 21, the Disciplinary Authority or the Cadre Controlling Authority who is not designated as Disciplinary Authority and who is subordinate to the Appointing Authority can draw up or cause to be drawn up-

(i) The substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge.

(ii) A statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain-

(a) A statement of all relevant facts including any admission or confession made by the Government Servant.

(b) A list of documents by which and a list of witness by whom, the articles of charge are proposed to be sustained.

(4) The Disciplinary Authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and copies of the said documents and statements of the said witnesses and shall require the Government Servant to appear before the Disciplinary Authority on such day and at such time not exceeding ten working days and submit a written statement of his defence and to state whether he desires to be heard in person.

(5) (a) On the date fixed for appearance, the Government Servant shall submit the written statement of his defence. The Disciplinary Authority shall ask the government servant whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charges, the Disciplinary Authority shall record the plea, sign the record and obtain the signature of the Government Servant thereon. The Disciplinary authority shall record findings of guilty in respect of those articles of charge to which the Government servant pleads guilty. Where the Government servant admits all the articles of charge, the disciplinary authority shall record its findings on each article of charge after taking such evidence as it may think fit and shall and shall act in the manner laid down in Rule 21.

(b) Where the Government Servant appears before the Disciplinary Authority and pleads not guilty to the charges or refuses or omits to plead, the Disciplinary Authority shall record the plea and obtain signature of the Government Servant thereon and may decide to hold the inquiry itself or if it considers necessary to do so appoint an Inquiring Authority

for holding the inquiry into the charges and also appoint a Government Servant or a retired Government Servant or a legal practitioner as Presenting Officer to present the case in support of the articles of charge and adjourn the case to a date not exceeding five days.

(c) On the day so fixed, the disciplinary authority shall serve copies of the orders appointing the inquiring authority and the Presenting Officer on the Government servant and inform him that he may take the assistance of any other Government servant to present the case on his behalf, but he may not engage a retired Government servant or a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is one such, or, the disciplinary authority, having regard to the circumstances of the case, so permits.

Provided that no Government servant dealing in his official capacity with the case of inquiry relating to the person charged or any officer to whom an appeal may be preferred shall be permitted by the inquiring authority to appear, on behalf of the person charged before the inquiring authority.

Provided further that the Government servant may take the assistance of any other Government servant posted at any other station, if the inquiring authority having regard to the circumstances of the case and for reasons to be recorded in writing, so permits.

Note (1):- The Government Servant shall not take the assistance of any other Government Servant who has pending two disciplinary cases on hand in which he has to give assistance.

Note (2):- The Government servant may also take the assistance of a retired Government servant to present the case on his behalf, subject to such conditions as may be specified by the Government from time to time by general or special order in this behalf.

(d) The Disciplinary Authority shall inform the Government Servant to submit within five days a list of documents, which he requires to be discovered or produced by Government for the purpose of his defence indicating the relevance of the documents so required.

(e) The Disciplinary Authority may for reasons to be recorded in writing refuse to requisition such of the documents as are, in its opinion, not relevant to the case.

(f) The Disciplinary Authority shall on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept with a requisition for the production of the documents by such date as may be specified in such requisition.

(g) On receipt of the requisition referred to in sub-rule (5)(f), every authority having the custody or possession of the requisitioned documents shall produce the same before the Disciplinary Authority.

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any such documents would be against the public interest or security of the State, shall submit the fact to the Head of Department or to the Secretary of the Department concerned for a decision in the matter. Such decision shall be informed to the Disciplinary Authority and where the decision is to withhold production of all or any of such documents, the Disciplinary Authority shall on being so informed communicate the information to the Government Servant and withdraw the requisition made by it for the production or discovery of such documents and where the decision is against withholding the production of all or any of such documents, every Authority having the custody or the possession or the possession of such requisition documents shall produce the same before the disciplinary authority.

(6) Where the Government Servant to whom a copy of the article of charge has been delivered does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the Disciplinary Authority or otherwise fails or refuses to comply with the provisions of this rule, the Disciplinary Authority may decide to hold the inquiry ex-parte or if it considers necessary so to do, appoint an Inquiry Authority for the purpose.

(7) (a) The Disciplinary Authority shall, where it is not the Inquiring Authority, forward to the Inquiring Authority-

(i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(ii) a copy of the written statement of defence, if any submitted by the Government Servant;

- (iii) copies of the Statements of Witnesses, referred to in sub-rule (3);
 - (iv) copies of documents referred to in sub-rule (3);
 - (v) evidence proving the delivery of copies of the documents referred to in sub-rule (3) to the Government Servant; and
 - (vi) a copy of the order appointing the “Presenting Officer”.
- (b) The Disciplinary Authority shall also forward to the Inquiring Authority documents received under clause (g) of sub-rule (5) as and when they are received.”

In this connection, it may be apt and appropriate to refer to the judgment rendered in the case of **M.A. Majeed** (1 supra). In the said case, the following reference was made to the Full Bench:

- a) Whether framing of charge under Rule 20 of the A.P. Civil Services (Classification, Control and Appeal) Rules, 1991 by the disciplinary authority is a mandatory requirement?
- b) Whether the Enquiry Officer appointed by the Disciplinary Authority is competent to frame charges and proceed with the enquiry?

Answering the said reference, this Court at paragraph 16 held as under:

“It is apparent from Rule 20 that the role of the Enquiry Officer commences after the disciplinary authority framing the charges and applying its mind to the statement of defence, if any, filed by the delinquent. We express our inability to agree with the view taken by the Division Bench of this Court in **V. Rajamalliah’s** (supra)

case that Rule 20(4) is too much technical in nature. The object of making the disciplinary authority to frame the charges and consider the written statement of defence, if any, filed by the delinquent before the appointment of Enquiry Officer has been stated in the aforesaid paras of the judgment and therefore, we do not wish to burden the judgment by reiterating the same. In our considered opinion, it is mandatory for the disciplinary authority under the C.C.C.A. Rules, 1991 to frame charges before the appointment of the Enquiry Officer. The appointment of enquiry Officer under Rule 20(2) arises after serving the articles of the charge and receiving the written statement of defence, if any, from the delinquent.”

Following the Full Bench judgment, this Court in Writ Petition No.25868 of 2012 held as under:

“A combined reading of the above provisions indicates that an inquiry officer can be appointed only after an explanation is received from an employee to the charge-sheet. The grounds on which the action is proposed are required to be ‘reduced to the form of a definite charges by the disciplinary authority and the function of the inquiry officer is only to record findings as to the proof or otherwise of the charges.’”

According to the learned Standing Counsel for the respondents, the CCA Rules were adopted by the respondent Corporation only in the year 2009 and in the instant case, the impugned proceedings attained finality long prior thereto. It is the further submission of the learned Standing Counsel that as per Rule 14(4) of the Rules, the disciplinary authority can delegate

his power to the enquiry officer to frame charge also. It would be appropriate to refer to the same, which reads as follows:

“The inquiry under this rule and the procedure, with the exception of passing the final order, may be delegated by the disciplinary authority in case the employee against whom the proceedings are to be initiated in a Group ‘A’ Officer, to any other Group ‘A’ Officer, who is in one or more grades higher than such Officer and in the case of all Group ‘B’ and Group ‘C’ employees to any officer in group ‘A’. The Inquiry Officer shall submit his enquiry report with his findings on each charge to the Disciplinary Authority for a final decision.”

There is absolutely no evidence to show as regards the said delegation. Even as per Rule 14(3) of the Rules, the charge or charges shall be formulated in writing.

Having regard to the principles laid down in the above referred judgments cited by the learned counsel for the petitioner and in view of the above reasons, the contention of the learned Standing Counsel for the respondent Corporation that the enquiry officer is competent to frame charges and proceed with the enquiry cannot be sustained. It is significant to note that the object of issuance/framing of charge sheet/charges is to enable the delinquent to cause inspection of records and offer his defence and if the disciplinary authority is satisfied, he can drop further action. If the charges are allowed to be framed by the enquiry officer, there may be possibility of formation of opinion

in advance by the enquiry officer as to the result of the enquiry and this would undoubtedly affect the enquiry proceedings whose object is to unearth the reality in an impartial manner. Therefore, the only irresistible conclusion which can be arrived at is that the very action of framing charges and proceeding with the enquiry basing on the said charges by the enquiry officer is totally one without jurisdiction and such action can neither be approved nor sustained and the order of punishment passed by the second respondent basing on the said irregularly held enquiry, as confirmed by the appellate authority, is untenable and has absolutely no sanctity of law. Therefore, this point is answered in favour of the petitioner and against the respondents, holding that the very framing of charges and consequential proceedings undertaken by the enquiry officer are totally without jurisdiction.

For the aforesaid reasons and in view of the findings on points 2 and 3, this Writ Petition is allowed, setting aside the orders, dated 09.06.2000 and 15.02.2002 and it is open for the respondents to proceed in accordance with law, if they are advised to do so, and in the light of the observations made supra, and the said exercise shall be completed within a period of six months from the date of receipt of this order. It is made clear that in the event of non-conclusion of proceedings as mentioned above, the petitioner is entitled to be reinstated after expiry of the said period with all consequential benefits.

Consequently, Miscellaneous Petitions, if any pending in this Writ Petition shall stand disposed of. No order as to costs.

A.V.SESHA SAI, J

4th JANUARY, 2017.

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