

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

W.P.No.18026 OF 2005

Between:

The Director of Sericulture and 2 others

... Petitioners

and

V.V. Bhaskar Kumar

... Respondent

JUDGMENT PRONOUNCED ON: 12TH JUNE, 2017.

THE HON'BLE SRI JUSTICE SRI SURESH KUMAR KAIT :

AND

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER :

- 1 Whether Reporters of Local newspapers :
may be allowed to see the Judgment?
- 2 Whether the copies of judgment may be :
marked to Law Reports/Journals?
- 3 Whether Their Lordship wish to see the :
fair copy of the Judgment?

*** THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT**
AND
THE HON'BLE SRI JUSTICE U DURGA PRASAD RAO
+ WRIT PETITION No.18026 OF 2005

% 12-06-2017

The Director of Sericulture and 2 others

... Petitioners

vs.

\$ V.V. Bhaskar Kumar

... Respondent

!Counsel for the Petitioner : G.M. Ravi Kumar

^Counsel for the Respondents : G.P. for Services

<Gist :

>Head Note :

? Cases referred :



**THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE DR. JUSTICE SHAMEEM AKTHER**

WRIT PETITION No.18026 OF 2005

ORDER: *(Oral)*

(Per Hon'ble Sri Justice SURESH KUMAR KAIT)

Vide the present petition, the petitioners have assailed the order dated 16.06.2005 passed in O.A.No.8592 of 2003 and O.A.No.162 of 2002, whereby, O.A.No.162 of 2002 filed by the respondent herein was allowed with liberty to the respondents therein to pass any other orders which shall be in uniformity with the orders passed in respect of similarly situated persons irrespective of the ranking. It was further directed, the respondents shall be reinstated in service forthwith at any rate, within a period of two weeks from the date of receipt of a copy of the order.

2. Being aggrieved, the petitioners challenged the aforesaid order in the instant petition. This Court, vide order dated 23.08.2005, had suspended the order passed by the learned Tribunal, which is in operation till date.

3. As stated in the instant petition, vide proceedings Rc.No.7643/2000-B1-A, dated 05.09.2001 of the first petitioner, the respondent-Inspector of Sericulture, was imposed with punishment of "Compulsory Retirement from Government service" under Rule-9 (vii) of A.P.C.S. (CC&A) Rules 1991 for proven charges of disposing of Cocoons to

private parties without prior permission of higher authorities resulting in keeping the silk reeling unit idle. Moreover, not attending to his duties regularly in spite of specific instructions of higher authorities, issuing telegram to the Director of Sericulture in the name of Sericulture staff making complaint against the Assistant Director of Sericulture, Srikakulam. The Assistant Director of Sericulture, Head Office has conducted verification/ inspection of the office of Assistant Director of Sericulture, Srikakulam from 20.07.2000 to 22.07.2000 and submitted his report dated 26.07.2000. Among others, the following were reported, as under:

- 1) *The said telegram dt.12.07.2000 making allegations against the Assistant Director of Sericulture, Srikakulam was issued by the Sri V.V. Bhaskar Kumar, Inspector of Sericulture, Silk Reeling Unit, Srikakulam.*
- 2) *that the said Sri V. V. Bhaskar Kumar, the then I/c of the Silk Reeling Unit had disposed 273 Kgs of dried cocoons to a private party without prior permission of the higher authorities and during the Asst. Director of Sericulture, Srikakulam was under training in I.O.A., Hyderabad. As a result the staff and reeling unit was kept idle for want of reeling cocoons from 10.02.2000.*
- 3) *Further reported that the individual is not attending to duty regularly in spite of instructions of the higher authorities.*

4. After examining the report submitted by the Assistant Director of Sericulture, disciplinary action was

initiated under A.P.C.S. (CC&A) Rules 1991 against the respondent and the following three (3) charges were framed against him vide Charge Memo Rc.No.7343/2000-B1-A, dated 10.08.2000 of the 1st petitioner herein, which reads as under:

“Charge No.1: That Sri V.V Bhaskar Kumar, Inspector of Sericulture, I/c of the Reeling Unit has disposed 273 Kgs of dried cocoons to M/s Lakshmi Sreenivasa Silk Industries without prior permission of the higher authorities. In the absence of Asst. Director of Sericulture, who was under training at IOA, Hyderabad and the sale proceeds for Rs.23,882.35ps. was remitted to the respective bank account. As a result, the Reeling Unit is kept idle for want of Reeling cocoons from 10.02.2000, along with the staff and workers. His wilful maintenance of the unit is unbecoming of a Government Servant. Thus he violated Rule-3 of APCS (Conduct) Rules, 1964.

Charge No.2: That Sri V.V Bhaskar Kumar, Inspector of Sericulture, i/c of Silk Reeling Unit, Srikakulam is not attending to the duty regularly in spite of the instructions of the Higher authorities. His non-compliance to the instructions of higher officers amounts to insubordination and breach of discipline and thus a violation of Rule-3 of APCS (Conduct) rules, 1964.

Charge No.3: That Sri V.V Bhaskar Kumar, Inspector of Sericulture has issued a telegram in name of Sericulture Staff of Srikakulam with a malafide intention. This amounts to breach of discipline and thus violated Rule-3 of APCS (Conduct) Rules, 1964.”

5. Not satisfying with the reply of the respondent, departmental inquiry was proceeded after giving opportunity to both sides. The inquiry officer communicated its report to the respondent vide Memo No.7643/2000-B1-A, dated 21.04.2001 of the 1st petitioner to make his representation, if

any, as required under Rule-20 of A.P.C.S (CC&A) Rules 1991. Accordingly, the respondent has submitted his representation dated NIL on the findings of inquiry officer. After considering the reply, the following punishments were imposed, which reads as under:

1. *Stoppage of (5) annual grade increments with cumulative effect vide Director of Sericulture proceedings Rc No.5933/1995-B2 dated 02.02.1998.*
2. *Stoppage of (2) annual grade increments with cumulative effect vide Director of sericulture proceedings Rc No.6904/96-B1-A, dated 09.06.2000.*

6. Learned Government Pleader appearing on behalf of the petitioners submits that since the charges proved against the respondent are very grave in nature and as he had not mended his way and behaviour in spite of above punishments of stoppage of increments imposed on him twice in the past, final orders imposing punishment of “Compulsory Retirement from Government Service” was rightly issued vide proceedings Rc.No.7643/2000-B1-A, dated 05.09.2001 of the Disciplinary Authority i.e., the 1st petitioner herein.

7. Learned Government Pleader further submits that the Hon’ble Tribunal without considering the facts and circumstances of the case and the fact that the respondent had not exhausted the opportunity provided under statutory rules, has disposed of O.A.No.162 of 2002 along with another O.A.No.8592 of 2003 on 16.06.2005, while setting aside the

order of punishment, directed the respondents (petitioners herein) to pass further orders and further directed to reinstate the respondent into service.

8. Learned counsel appearing on behalf of the respondent submits that the departmental enquiry was initiated against the respondent including other charged officers, whereas the other officers were let out by awarding minor punishment. However, none of them removed from the service, whereas, the respondent by the impugned order as mentioned above, compulsorily retired from the service.

9. We have heard the learned counsel for the parties.

10. We note, in the impugned order, dated 05.09.2001 passed in proceeding Rc.No.7643/2000-B1-A, it is specifically stated that it is also verified the back records of the Charged Officer by the Disciplinary Authority and found that he was punished with stoppage of five (5) Annual Grade increments with cumulative effect vide Director of Sericulture proceedings Ref No.5933/95-B2, dated 02.02.1998 while he was working as in-charge of T.S.C., Buggapuram of Vizianagaram District and with stoppage of two (2) Annual Grade increments with cumulative effect vide Director of Sericulture proceedings Ref.No.6904/96-B1-A, dated 09.06.2000 for his misconduct/ misbehaviour and indulging in collection of amount from the farmers to favour them in official works/failure in discharging his legitimate duties/his undisciplined/ and in subornation.

In spite of facing the above punishments, the individual has not changed his attitude. We note, the respondent has failed to show any of the incident, wherein similarly placed officer was awarded lesser punishment, despite having two earlier punishments in credit.

11. Therefore, we are of the considered opinion that the learned tribunal has ignored this fact while passing orders in O.A. No.1405 of 2001 and O.A.No.10182 of 2002, dated 31.03.2003, and the orders of this Court passed in W.P. No.24694 of 2003. The facts and circumstances in these O.As are similar to those of cases decided by the tribunal in earlier O.As. The matter pertains to financial irregularity and advances made to the farmers which are either not recovered or recovered but not remitted or recovered but remitted late.

12. We further note, the learned tribunal has noticed that the amounts involved are very less when compared with others. Accordingly, there cannot be basis to compulsory retirement of the respondent from the service.

13. As discussed above, the other two punishments, whereby (5) and (2) increments with cumulative effect, were awarded in favour of the respondent, however, that fact has not been taken into consideration by the tribunal. The facts and circumstances of each case, if separate, that has to be dealt separately. In the present case, other Charged Officers were not having any punishment earlier awarded in their

credit. Therefore, the case of the respondent is graver than Other Charged officers.

14. It is not in dispute that the misappropriate amount was remitted back by the respondent in the Treasury when charges were framed against him. That does not wash out the misconduct committed by the respondent.

15. In view of the above discussion, we hereby set aside the order dated 16.06.2005 passed in O.A.No.162 of 2002. Consequently confirmed the impugned order proceedings Rc No. 7643/2000-B1-A, dated 05.09.2001.

16. Accordingly the writ petition is allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE SURESH KUMAR KAIT.

Dr. JUSTICE SHAMEEM AKTHER.

Date : 12-06-2017

Note : L.R.Copy be marked.

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