

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION (TR) NO.401 OF 2017

Date: 27.07.2017

Between:

M.Chandramouli, S/o Narsaiah, Aged 50 years,
working as MPDO, Hanamkonda, Warangal Dist.

..... Applicant/
Petitioner

and

The Government of A.P., rep.by its Principal
Secretary, PR & RD Department, Secretariat,
Hyderabad and others.

.....Respondents



The Court made the following:

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ORDER:

At the relevant point of time, petitioner was working as Mandal Parishad Development Officer (MPDO), Kothaguda, Warangal. Disciplinary proceedings were initiated against him. Charge Memo was issued in June, 2005. The Charge Memo contained three charges. Allegation in the first charge is that he has submitted false proposals to Project Director based on the work wise progress report submitted by Assistant Engineer for bogus works of laying of CC roads and based on the proposals of petitioner, proceedings were issued for release of 60.00 Mts of rice. Allegation in the second charge is that he has submitted false proposals to Chief Planning Officer, Warangal based on the work wise report submitted by Assistant Engineer for the bogus works of laying of CC roads and got sanctioned an amount of 5.00 lakhs. Allegation in the third charge is that he informed that there was no sanctioned orders for the works of laying of CC roads and that he was unaware of the date of starting of the above works and that he has not submitted any requisition to the Mandal Revenue Officer, Kothaguda for releasing the rice, whereas, he has submitted the proposals to the Project Director and the Chief Planning Officer for releasing the rice and cash and he himself got 5.00 lakhs from CPO, Warangal. It is also alleged that he being an Executive Agency at Mandal level for Janma Bhoomi works, he misguided the Project Director and Chief Planning Officer in getting the sanction orders of rice and cash.

2. Petitioner, the Assistant Engineer and the Mandal Revenue Officer were placed on defence before the Commissioner of Inquiries. The Commissioner of Inquiries submitted his report on 28.08.2008. The Commissioner held charges as proved against the Assistant Engineer and the Mandal Revenue Officer, whereas made castigating remarks against petitioner. Enclosing a copy of the report of the Commissioner, show-cause notice was issued to the petitioner on 19.09.2008. In response to the show-cause notice, petitioner submitted his detailed explanation on 01.05.2009. After receipt of the explanation, Government in G.O.Rt.No.320, Panchayat Raj & Rural Development (VIG.I) Department, dated 27.02.2013, passed final orders imposing punishment of withholding of one increment with cumulative effect. Challenging the said punishment, petitioner filed O.A.No.2180 of 2013 before the A.P.Administrative Tribunal, which is transferred to this Court and renumbered as WP (TR) No.401 of 2017.

3. Learned counsel for petitioner made elaborate submissions on the procedural aspect of conducting disciplinary proceedings and on merits. The first and foremost submission of the learned counsel for petitioner is the order imposing punishment is bereft of reasons; that there was no discussion on the explanation filed by the petitioner and no reasons are assigned as to why explanation filed by the petitioner is not acceptable and on that ground alone the order is liable to be set aside.

4. Learned Government Pleader fairly submits that reading of the order would show that there is no discussion on the explanation submitted by the petitioner.

5. Rule 21 of APCS (CC&A) Rules, 1991, deals with the situation after the report of the enquiry officer is submitted to the disciplinary authority. Various contingencies are provided for the disciplinary authority to exercise its power. As per Sub-rules (2) and (3), if the disciplinary authority agrees with the report of the enquiry officer, he should communicate the report calling for explanation on the findings recorded by the enquiry officer. If an explanation is submitted by the delinquent employee, the disciplinary authority is required to consider the explanation and record its findings on the explanation submitted before proceeding to impose punishment.

6. Thus, statutory provision which govern the conduct of disciplinary proceedings mandate disciplinary authority to assign due reasons in support of the decision imposing punishment after considering the explanation submitted by the delinquent employee on the findings recorded by the enquiry officer. In the case on hand, no reasons are assigned why explanation offered by the petitioner was not satisfactory. In paragraphs-1 to 4 of the G.O., it is a narration of events that took place till Government made provisional decision. Paragraph-5 reflects the provisional decision taken by the Government and Paragraph-6 deals with reference to the Andhra Pradesh Public Service Commission for their opinion. The order is contained in paragraph-7. It does not contain reasons. Bare perusal of the order, in the light of statutory mandate, is not sustainable and is liable to be set aside on that ground.

7. Having regard to the statutory mandate and the frontal attack by the petitioner on violation of statutory mandate, learned

counsel for petitioner requests confining the issue for the present on the statutory violation in passing final order imposing punishment.

8. Court is convinced that there is merit in the contention of the learned counsel for petitioner on the statutory violation in dealing with the explanation submitted by the petitioner and final orders impugned herein is set aside on that ground alone. Matter is remitted to the Government to the stage of consideration of explanation submitted by the petitioner on 01.05.2009 and taking a decision on due consideration of the explanation and assigning reasons in support of the decision taken. A decision shall be taken and communicated to the petitioner as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order.

9. The Writ Petition (TR) is allowed accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

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