

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

[Special Original Jurisdiction]

WEDNESDAY THE FIFTH DAY OF JULY
TWO THOUSAND AND SEVENTEEN

PRESENT

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT PETITION No. 21536 OF 2006

Between :

The Engineer-in-Chief [Admn. Wing]
Irrigation & CAD Department
Erramanzil, Hyderabad & Ors. ... Petitioners

V/s.

B. Neelakantam ... Respondent

Counsel for the Petitioner : Government Pleader

Counsel for the Respondent : Sri S. Satyam Reddy

The court made the following: : [order follows]



**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
A N D
HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

WRIT PETITION No. 21536 OF 2006

ORDER : (Oral) (Per the Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed by the petitioners seeking to issue writ of certiorari, calling for the records relating to the orders dated 19/10/2005 passed by the A.P. Administrative Tribunal, Hyderabad in O.A.No. 2498 of 2004, in so far as not granting any liberty to the petitioners to proceed with the enquiry, as being erroneous, illegal and unreasonable and to quash the same and to pass such other suitable orders as this Court may deem fit and proper in the circumstances of the case.

2. Heard the learned Government Pleader appearing on behalf of the petitioners and the learned counsel appearing on behalf of the respondent.

3. Vide the present petition, petitioners has assailed the orders dated 19/10/2005 passed in O.A.No. 2498 of 2004 by the A.P.

Administrative Tribunal, Hyderabad, whereby the O.A. filed by the respondent herein was allowed.

4. As stated in the affidavit filed in support of the petition, the respondent had joined the service as Assistant Engineer in the year 1978 in the Irrigation Department. While working as Assistant Engineer, Irrigation sub-division, Tekkali, Srikakulam district, disciplinary proceedings were initiated against him by issuing a charge memo on 21/9/2002 for the irregularities in the works taken up under Food for Work Programme. The charges relate to the financial irregularities and misappropriation of the amounts meant for Food for Work Scheme. To the charge memo dated 21/9/2002, the respondent had submitted an explanation on 21/10/2002 and the disciplinary authority having not satisfied with the explanation submitted by the respondent, appointed an Enquiry Officer to conduct an enquiry into the charges. The District Revenue Officer, who was appointed as an 'Enquiry Officer' has conducted enquiry and submitted his report on 21/06/2003. After considering the Enquiry Officer's report, a show cause notice was issued by the Disciplinary Authority on 14/11/2003 calling for his explanation as

to why punishment should not be imposed on him. The respondent submitted his explanation. Thereafter, vide proceedings dated 01/03/2004 punishment of stoppage of two annual grade increments with cumulative effect was imposed on the respondent.

5. Being aggrieved, the respondent challenged the proceedings in O.A.No. 2498 of 2004 before the learned Tribunal on the ground that the Enquiry Officer has not followed the procedure contemplated under A.P. Civil Services [CC & A] Rules, and therefore, the punishment orders have to be set aside.

6. Learned Government Pleader appearing on behalf of the petitioners submits that the learned Tribunal has committed an error in not granting any liberty to the petitioners to proceed with the enquiry from where it was found fault with and consequently though the charges are grave in nature, therefore, there is no further opportunity to the Disciplinary Authority to conduct enquiry against the respondent herein.

7. Learned counsel appearing on behalf of the respondent submits that the respondent was not given opportunity to defend his case, however, the Enquiry Officer conducted the enquiry and submitted his

report. The first petitioner based on the said enquiry report, issued a show cause notice on 14/11/2003, which is illegal and on being challenged, the learned Tribunal has rightly set aside the impugned proceedings No. RC/ENC/SI(2)/24805/02-6, dated 01/3/2004, in the O.A. filed by the respondent. The learned counsel further submits that the petitioners have violated the principles of natural justice, thus the writ petition deserves to be dismissed.

8. The case of the Disciplinary Authority is that during verification of the following works executed by the delinquent under FFWP and ESCI officials found on 26/3/2002 that though the works are in progress measurements were not recorded in M.Books. Moreover, rice was issued to labour and that NMRs were not produced for verification.

Sl. No.	Name of the work	Estimate Rs.	Quantity of rice issued
1.	Repairs to feeder channel from Gajjalapunnu to Marripadugedda, Kambala tank, Voora tank, Saikarra tank, Tamara tank in Chindaimilli village of Bhamini Mandal.	1,00,000=00	13,000 Kgs
2.	Repairs to Battili Yerrigedda main channel feeding to Voora tank Battili village of Bhamini Mandal.	1,00,000=00	14,000 Kgs
3.	Repairs to Peddagedda leading channel to Voora tank of Baleru village of Bhamini Mandal.	50,000=00	6,500 Kgs.
4.	Repairs to Peddagedda leading channel to Dasunaidu tank of Solikiri village to Bhamini Mandal.	80,000=00	11,000 Kgs

5.	Repairs to feeder channel to Maddimanu tank and breach closing to tank of Sativada village of Bhamini Mandal.	1,00,000=00	12,000 Kgs
6.	Repairs to Donguru gedda channel to Vooraq tank and Brahmana tank of Penddadimili village of Bhamini Mandal.	30,000/-	4,000 Kgs

Accordingly, the respondent failed to follow the guideline issued by Government under FFWP in execution of the above works.

9. The Presenting Officer submitted a brief, which is as under :

At the time of inspection by ESCI team the work is in progress.

The statement of the Assistant Engineer that since the work is in progress and final sections not arrived and so he has not taken the measurements in M.Book can be considered. As per the departmental procedure the work will be measured only after arriving at the final sections. There are instructions to issue rice to the labour every week based on the out-turn.

Since the object of the FFWP is to provide wage employment to the needy people in the affected rural areas. Hence, rice is to be issued to the labour based on out-turn. In fact rice should be issued to the labour at regular intervals. As seen from the defence statement of the Assistant Engineer he has maintained the NMR and NMR is with his works inspector at the time of inspection of the ESCI team. Since he was called

to the inspection to short notice, he could not able to present the work to the ESCI team at the time of inspection. As verified from records produced by the Assistant Engineer, he has maintained the muster roll as per FFW guidelines.

10. The charged officer in his explanation dated 07/5/2002 stated that all the above works are in full swing and were particularly completed at the time of partially complete at the time of inspection of works by the ESCI officials. All of a sudden the ESCI officials asked him to show the works executed under FFWP and connected records such as M.Books and NMRs. As March being the best working season all the work Inspectors who are incharge of execution of the works have gone to the respective works along with NMRs,. Before '8' 'O' clock itself being summer season and hence he could not produce the NMRs that he explained the above position to the ESCI officials. Immediately after the date of inspection, he met the ESCI officials and shown them the muster rolls and explained them all the above facts, but they have not accepted the reasons produced by him.

11. The respondent further stated that all the works are earth work in nature and they are in various stages of execution and not completed. Generally the practice in the department is to record the measurements for staff works after completion in all respects according to sanctioned plans. As the works are in execution and not completed to the final profile of the section, the measurements are not recorded with a view to record the measurements after their completion to the departmental standards. The ESCI officials also ought to have inspected the works by giving advance intimation, which is convenient to the Assistant Engineers concerned because the role of the Assistant Engineer in irrigation department is vital and he has to attend various meetings at Block level, District level also besides supervision of the works, which are in execution. They have also not intimated the works to be inspected by the ESCI officials as per their norms.

12. He further stated that the labour engaged on the works are poor people and they are being survived on their daily wages only. The rice is issued to the labour by keenly watching the works turned out by them duly deducting some quantum of work subject to final verification.

After completion of works, the final measurements were recorded and account of rice issued is adjusted duly taking into consideration of the final quantities of work done.

13. It is an admitted case of the petitioners that during enquiry no witnesses were examined nor any witness from the labour is examined to establish that the respondent did not distribute the rice in favour of the labours against the work done by them. However, we agree to the contention of the counsel for the petitioners to the extent that if poor labour works in the month of March, certainly they will not wait to get rice till completion of the work. It seems that the respondent distributed the rice to the labours on daily basis subject to adjustment at the time of completion of final work done by the labour. We do not agree on the argument of the counsel for the petitioners that first work to be completed and then rice has to be distributed in favour of the labours.

14. In view of the above facts and circumstances, the learned Tribunal has rightly held that it is a violation of natural justice. Finding no merit, the writ petition is accordingly dismissed.

15. As a sequel, miscellaneous petitions if any, pending in this writ
petition shall stands closed.

JUSTICE SURESH KUMAR KAIT

JUSTICE U. DURGA PRASAD RAO



05-07-2017
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**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE JUSTICE U. DURGA PRASAD RAO**

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WRIT PETITION No. 21536 OF 2006
[DISMISSED]

*(Order of the Division Bench delivered by
Hon'ble Sri Justice Suresh Kumar Kait)*



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