

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

WRIT PETITION No.26120 OF 2006

ORDER :

This writ petition, filed under Article 226 of Constitution of India, challenges the order passed by the 1st respondent vide proceedings No.SSDC/Admn.2005-06, dated 11.11.2005, as confirmed by the 2nd respondent vide proceedings No.SSDC/Admn./2006-07, dated 07.11.2006.

At the time of filing of the present writ petition, petitioner herein was working as an Assistant Manager (Marketing) in the 1st respondent organisation. The Managing Director of the respondent organisation issued a charge memo bearing No.SSDC/Admn./2000-2001, dated 29.07.2000, framing the following Articles of charges against the petitioner herein:

“The, Sri.M.Rama Krishna Reddy, S/o.Basi Reddy joined A.P.State Seeds Development Corporation Limited on 31.07.1980 as Seed Officer and subsequently promoted as Assistant Manager on 10.10.1991 and while functioning as Assistant Manager, A.P.State Seeds Development Corporation Limited, Ananthapur during the year 1999 exhibited slackness in supervision of the purchase of groundnut, as a result the Seed Officer, I/C of Tadipatri procurement Centre procured groundnut without proper cleaning due to which, 88,680 kgs waste material worth Rs.13,78,780/- was also purchased and thereby attempted to cause wrongful loss of Rs.13,78.780/- to farmers and corresponding wrongful gain to the suppliers and violated rule 4(ii) of A.P.State Seeds Development Corporation Limited Discipline and Appeal Rules. Further, he failed to maintain absolute integrity and devotion to duty as such he violated rule 3 of A.P.State Seeds Development Corporation Limited conduct Rules.

Thus, Sri M.Rama Krishna Reddy, by his above mentioned acts has exhibited negligence and slack supervision and failed to maintain absolute integrity and devotion to duty and thereby

contravened rule 4 (ii) of A.P.State Seeds Development Corporation Limited Discipline and Appeal Rules and rule 3 of A.P.State Seeds Development Corporation Limited Conduct Rules.”

In response to the above said charge memo and the charge contained therein, petitioner herein submitted a reply dated 16.08.2000, denying the charge while requesting to drop further action. Thereafter, the respondent authorities appointed the Enquiry Officer. The Enquiry Officer, so appointed, submitted a report dated 27.02.2004, holding the petitioner ‘not guilty’ of the charge framed.

Subsequently, disagreeing with the findings of the Enquiry Officer, the 1st respondent-Managing Director issued a show cause notice vide proceedings No.SSDC/ADMN/2005-06, dated 12.08.2005, asking the petitioner to submit a representation on the enquiry report and disagreement factors mentioned. Thereafter, the disciplinary authority- 1st respondent Managing Director passed an order vide proceedings No. SSDC/Admn.2005-06, dated 11.11.2005, imposing penalty of stoppage of two increments with cumulative effect from 01.07.2006 to 01.07.2007 on the petitioner. Assailing the validity of the said order passed by the 1st respondent-Managing Director, the petitioner herein preferred an Appeal on 24.02.2006, before the 2nd respondent-Board of Directors. The 2nd respondent by virtue of proceedings No.SSDC/Admn./2006-07, dated 07.11.2006, while referring to the decision taken by the Chairman, rejected the said appeal filed by the petitioner herein.

Heard Sri T.Suryakaran Reddy, learned senior counsel for the petitioner and Smt. Pasham Sujatha, learned Standing counsel for the respondents.

It is contended by the learned senior counsel for the petitioner that the questioned orders are highly illegal, arbitrary, unreasonable and contrary to the basic principle of service law. It is further submitted that without recording any reasons for disagreement with the findings of the Enquiry Officer, the 1st respondent grossly erred in issuing show cause notice and eventually, the order of punishment. It is further submitted that there are absolutely no reasons assigned by the disciplinary authority, to discard the findings of the enquiry report. It is further argued by the learned senior counsel that the appellate authority also rejected the appeal, by a non-speaking order without recording any valid reasons. In support of his contentions, learned senior counsel appearing for the writ petitioner places reliance on judgment of Honourable Apex Court reported in ***Punjab National Bank And Others Versus Kunj Behari Misra***¹.

On the contrary, it is submitted by the learned Standing counsel for the respondents that there is no illegality nor infirmity in the impugned order and in the absence of the same, the questioned orders are not amenable for any judicial review under Article 226 of Constitution of India. It is further submitted that strictly adhering to the principles of natural

¹ (1998) 7 SCC 84

justice, opportunity was given to the petitioner herein before inflicting the punishment.

In the above background, the issue that emerges for consideration of this Court is:

“Whether the order of punishment passed by the 1st respondent, as confirmed by the 2nd respondent-appellate authority is sustainable and tenable in the eye of law.”

There is absolutely no controversy in the reality that the Enquiry Officer appointed by the disciplinary authority to enquire into the charge levelled against the petitioner, submitted a detailed and extensive report, categorically holding that the petitioner is not guilty of the charge framed against him. A perusal of the Enquiry Officer's report, which is placed on record along with writ petition, as a material paper manifestly discloses that the Enquiry Officer has considered each and every aspect meticulously and ultimately recorded a finding in favour of the petitioner herein. Pursuant to the submission of the said enquiry report, the disciplinary authority, except extracting various prior events, including the framing of the charge, filing of written statement and filing of enquiry report by the Enquiry Officer, as correctly pointed by the learned senior counsel for the petitioner, did not record any reasons. The appellate authority rejected the appeal filed by the petitioner herein, without independently considering the issue. The appellate authority also did neither advert to grounds raised in the appeal nor considered veracity of the same. A reading of the order of the appellate authority also vividly discloses that the appellate

authority failed to assign reasons, much less valid reasons for rejecting the appeal. On the other hand, simply stated that it was rejecting the appeal in view of the decision taken by the Chairman. Another significant aspect which needs mention in this context is that as per Rule 9 of the Disciplinary & Appeal Rules for the Employees of the respondent organisation, it is mandatory on the part of the disciplinary authority to consider the record of enquiry and record its conclusions on each charge and to pass appropriate orders. In this connection, it is appropriate to refer to the decision of the Honourable Apex Court in ***Punjab National Bank's case*** (1 Supra). In the said judgment, the Hon'ble Apex Court while dealing with the identical issue held as follows:

“The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof, whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer containing its findings will have to be conveyed and delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer. The principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer.”

In the instant case, the respondent authorities adopted the procedure, contrary to the law laid down in the above referred judgment.

The disciplinary authority did not record any reasons for disagreeing with the findings of the Enquiry Officer. In the order of punishment, the disciplinary authority, except referring to the representation made by the petitioner herein in response to the show cause notice, did not record any reasons for imposing punishment. Unfortunately, the appellate authority also adopted the same process and dismissed the appeal, without even looking into the grounds of appeal filed by the petitioner herein. Therefore, this Court has absolutely no scintilla of hesitation nor any shadow of doubt to hold that orders impugned cannot be sustained in the eye of law.

For the aforesaid reasons, the writ petition is allowed setting aside the orders passed in proceedings No.SSDC/Admn./2005-06, dated 11.11.2005 by the 1st respondent as confirmed by the 2nd respondent vide proceedings No.SSDC/Admn./2006-07, dated 07.11.2006. It is further made clear that petitioner herein is entitled for all the consequential benefits. No costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

06.07.2017
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