

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

+ Writ Petition No.8816 of 2014

% Date: 28-11-2017

- # 1. The Govt. of AP, Rep. by its Prl. Secretary,
Revenue (R&S) Dept., Secretariat, Hyderabad
2. The Commissioner & Inspector General of
Registration & Stamps, M.J. Market,
Near Karachi Bakery, A.P., Hyderabad
3. The Deputy Inspector General of Registration &
Stamps, Ananthapur, Ananthapur District
- ... Petitioners

Vs.

- \$ 1. P.Venkat Reddy, S/o Venkat Reddy, Sr. Asst.,
O/o District Registrar Office (AB) Ramnagar,
Ananthapur, R/o H.No.12-1-70, 7th Cross,
Sai Nagar, Ananthapur
- ... Respondent/Applicant
2. The Hon'ble A.P. Administrative Tribunal,
Rep. by its Registrar, Purani Haveli, Hyderabad
- ... Respondent

! Counsel for Petitioners: Govt. Pleader for Services-II (AP)

Counsel for Respondent No.1: Mr. A.Rajendra Babu
Counsel for Respondent No.2: ---

< Gist:

> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
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HON'BLE SRI JUSTICE M.GANGA RAO

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Order: (per V.Ramasubramanian, J.)

Aggrieved by the order of the Andhra Pradesh Administrative Tribunal, Hyderabad, setting aside a penalty of censure, the State has come up with the above writ petition.

2. Heard the learned Government Pleader for Services-II (Andhra Pradesh) appearing for the petitioners and Mr. A.Rajendra Babu, learned counsel appearing for the 1st respondent.

3. By the proceedings of the Deputy Inspector General of Registration and Stamps, Kurnool, dated 10-11-2009, charges were framed against the 1st respondent herein, in terms of Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991. The one and only charge made against the 1st respondent was that while he was working as in charge Sub Registrar in the office of the Sub Registrar, Ananthapur Rural, he failed to scrutinise certain documents presented for registration during the period from 01-10-2007 to 03-10-2009 and allowed the registration of those documents, though there was a prohibition of registration of those documents under Section 22-A of the Registration Act.

4. An enquiry followed and a District Registrar submitted a report dated 10-01-2011, virtually holding that

the 1st respondent was not guilty of any misconduct. But unfortunately, the language employed by the Enquiry Officer was to the effect that the charges had to be dropped on humanitarian considerations.

5. Not satisfied with the said enquiry report dated 10-01-2011, the Deputy Inspector General of Registration and Stamps, Anantapur, by his proceedings dated 29-10-2011, ordered a *de novo* enquiry. As a matter of fact, the Deputy Inspector General could have disagreed with the findings of the Enquiry Officer and issued a notice for dissent. Instead, he chose to order a fresh enquiry.

6. Another Enquiry Officer of the rank of District Registrar, gave an enquiry report dated 24-3-2012, clearly holding the charges as not proved. Thereafter, the Deputy Inspector General of Registration and Stamps, Anantapur, issued a note of dissent on 03-5-2012 calling upon the 1st respondent to offer his explanation. The 1st respondent offered his explanation, after which a final order was passed by the Deputy Inspector General on 31-10-2012 imposing the penalty of censure.

7. Finding that the procedure contemplated by the Rules was not followed and that the very constitution of a second enquiry was not in order, the Tribunal set aside the order of penalty. As against the said order, the State has come up with the above writ petition.

8. There are several lacunae, only some of which have been noticed by the Tribunal. In the first enquiry report, dated 12-8-2011, the Enquiry Officer analysed the entire evidence on record including the audit remarks and came to the conclusion that the conduct of the 1st respondent did not warrant a major penalty proceedings. Instead of putting in so many words that the charge was not proved, the Enquiry Officer recorded that the charges may have to be dropped on humanitarian grounds.

9. Since the entire evidence was on record, the Disciplinary Authority could have taken a view to differ from the findings of the Enquiry Officer. Instead, the Disciplinary Authority chose to order *de novo* enquiry.

10. In the *de novo* enquiry, the new Enquiry Officer held the charge as not proved. Once the Enquiry Officer holds the charge as not proved, the Disciplinary Authority has two options viz., (1) either to accept the same or (2) to issue a show cause notice as to why a different view should not be taken.

11. But what the Disciplinary Authority in this case did was to pass an order dated 03-5-2012, straightaway taking a decision to differ from the findings of the Enquiry Officer, without affording an opportunity. The only opportunity afforded by the proceedings dated 03-5-2012 was to submit a representation on the report of the Enquiry Officer and to show cause why a major penalty should not be imposed.

12. Therefore, it is clear that the procedure for the issue of a show cause notice, whenever the Disciplinary Authority chooses to take a different view from that of the Enquiry Officer was not followed.

13. Eventually after all the hype, even the Disciplinary Authority could not impose any penalty other than the penalty of censure. Therefore, the Tribunal was right in setting aside the same and we see no justification to interfere with the order of the Tribunal. Hence, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.



V.RAMASUBRAMANIAN, J.

M.GANGA RAO, J.

28th November, 2017.
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AND
HON'BLE SRI JUSTICE M.GANGA RAO

Writ Petition No.8816 of 2014
(per VRS, J.)



28th November, 2017.
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