

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.16254 of 2003

ORDER:

This Writ Petition is filed by the petitioner, under Article 226 of the Constitution of India, seeking to declare the action of the 1st respondent in imposing the penalty of recovery of Rs.2,97,420.50 Ps. (double the cost) in his proceedings No.P.Admn.A4/2288/2002, dated 02.01.2003, as confirmed by the appellate authority, as communicated in the endorsement, dated 22.07.2003, of the 1st respondent, as illegal, arbitrary and violative of regulations and consequently set aside the same.

2. Heard both sides and perused the material available on record.

3. The case of the petitioner is that the petitioner joined in the respondent Corporation in the year 1982 as Canteen Supervisor and in the year 1989, his services were regularised as Assistant Grade III and he was posted to the District Manager Office, Mahaboobnagar, as In-charge of Mandal Level Stock Point Narayanpet, Mahaboobnagar District. While so, during the period of 1996-97, on a report given by the then District Manager, Civil Supplies, that a quantity of 305.57 quintals of rice was found shortage during the reconciliation of accounts and the same was occurred due to raising of bogus release orders while the petitioner was the in-charge of Mandal Level Stock Point in collusion with the Superintendent and Senior Assistant of the M.R.O. Office and that on a physical verification, which was

conducted by the Revenue Divisional Officer, Narayanpet, on 02.06.1997, it was informed that 457.57 quintals of rice was issued by 14 bogus release orders and that the 3rd respondent called and directed the petitioner to remit the value of the rice at single economic cost of Rs.650/- per quintal and as per the directions of respondents 1 & 3, the petitioner remitted an amount of Rs.2,97,450.50 Ps. by obtaining loan from friends and relatives and at the same time, the petitioner's left leg was fractured in an accident and though he underwent surgery, but still there is a disability of 50%. A charge memo was issued by the Joint Collector, E.O. E.D., on 14.07.1997 and that the petitioner submitted his explanation on 04.08.1997. Not satisfied with the explanation of the petitioner, the 1st respondent requested the Collector, Mahaboobnagar, to conduct common enquiry and appoint an enquiry officer in his No.P.Admn.29 (61)/97, dated 20.05.1998. The Revenue Divisional Officer, Gadwal, was appointed as Enquiry Officer and submitted his report in L.R.No.3437/98, wherein responsibility is fixed against the petitioner. The Collector, Mahaboobnagar, in his proceedings No.A4/4482/9, dated 21.02.1999, submitted to the 1st respondent that since the petitioner has remitted Rs.2,97,420.50 Ps. towards the cost of shortages of rice accepting his moral responsibility, a lenient view may be taken and a minor punishment as deem fit may be inflicted. Not satisfied with the said report, the 1st respondent appointed the Zonal Manager, Hyderabad, as Enquiry Officer, who is no other than the District Manager at Mahaboobnagar. The Enquiry Officer framed four charges against the petitioner and the petitioner submitted his

explanation to the 1st respondent. The 1st respondent issued show cause notice, which indicated punishment of dismissal from service in Order No.P.Admn.29 (61)/97, dated 15.03.2002, and the petitioner submitted his explanation, dated 05.05.2002. Having accepted the said explanation, instead of taking a lenient view, the 1st respondent, by order, dated 02.01.2003, ordered recovery of double the cost, which was the amount already remitted by the petitioner as single economic cost of shortages in 110 monthly instalments and stoppage of two annual grade increments and the period of suspension is treated as not on duty, which amounts to double punishment. Questioning the said proceedings, dated 02.01.2003, the petitioner filed W.P.No.1674 of 2003, wherein this Court while disposing of the said writ petition, directed the petitioner to file an appeal before the appellate authority, i.e., the Board of Director, pending appeal, the respondents were directed not to make recovery. The 1st respondent, by his endorsement No.P.Admn./A4/2288/2002, dated 22.07.2003, informed the petitioner that the Board of Director considered the appeal filed by the petitioner in the meeting held on 25.06.2003 and the same was rejected. Aggrieved by the same, the present writ petition is filed by the petitioner.

4. The short point for consideration in the present writ petition is that the primary authority and the appellate authority imposed fine on the petitioner, which was double the amount of the cost of the rice, which was found to be missing in the Mandal Level Stock Point.

5. Learned counsel for the petitioner submitted that the alleged incident took place in the year 1996-97, whereas though the 1st respondent is not empowered to recover the “double the cost” of the loss, which is contrary to the powers conferred on him under Regulation 25 of the Conduct, Discipline and Appeal Regulations of A.P. State Civil Supplies Corporation, he passed the impugned order on two counts i.e., (1) stoppage of two annual grade increments without cumulative effect; (2) recover double the cost of the shortages. Hence, the said penalty is sought to be modified, but it was made stringent by a circular, dated 27.08.1998, and that without amending the penal clause in the regulation, the 1st respondent cannot impose punishment by merely issuing circular. Learned counsel further submitted that the petitioner has already paid 50% of the amount imposed by the primary authority and also the appellate authority and that the petitioner has also paid a sum of Rs.50,000/- as per the direction of this Court in a writ appeal. Learned counsel further informed that he is confining his argument only to the extent of imposition of the fine and the petitioner is not interested with regard to the other aspects of the impugned proceedings, dated 02.01.2003, i.e., stoppage of two annual grade increments and prayed to allow the writ petition to that extent.

6. In view of the facts and circumstances of the case and the submissions of the learned counsel for the petitioner, this Court is of the view that since the petitioner was already retired from service and in view of the fact that the alleged incident occurred in the year 1996-97, but the amendment of the

Regulations of the Conduct, Discipline and Appeal Regulations of A.P. State Civil Supplies Corporation has come into force only in the year 1998, the imposition of double the amount of the cost of the rice is not permissible. Hence, the impugned order, dated 02.01.2003, is liable to be set aside only to the extent of imposition of fine, which is double the amount of the cost of rice. As far as the other aspects of the impugned order, dated 02.01.2003, are concerned, this Court is not inclined to interfere with the same.

7. Accordingly, the Writ Petition is partly allowed and the impugned order, dated 02.01.2003, passed by the 1st respondent is set aside only to the extent of imposition of fine. As far as the other aspects of the impugned order, dated 02.01.2003, are concerned, the same are not interfered with. There shall be no order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

RAJA ELANGO,J

Date: 31st August, 2017

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