

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR) No.345 of 2017

Date : 26.7.2017

Between :

T Goverdhan S/o T Bheemsena Achar
Deputy Director
Hydrology, A.P. Ground Water Department,
7th floor, BRKR Bhavan, Tank bund, Hyderabad

Petitioner

And

The Director,
Ground Water Department,
BRKR Govt offices complex,
8th floor –B block, Tank bund road,
Hyderabad and others

Respondents

The Court made the following:



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ORAL ORDER:

At the relevant point of time, petitioner was working as Deputy Director. Disciplinary proceedings were initiated against him leveling 4 charges. Departmental enquiry was ordered into the charges leveled against the petitioner. Enquiry officer in his report held all the charges are not proved, however, as regards charge No.1 he made observation that petitioner was over-enthusiastic to deliver the official duties entrusted to him and reposed too much trust and confidence in subordinate staff and failed to exercise reasonable control and supervision, thereby allowing the tampering of attendance register and claim false TA bills by Sri Y Srinivasulu, Superintendent in his office. The Government disagreed with the findings of the enquiry officer on charge no.1 and issued notice dated 9.5.2011 and sought explanation of the petitioner. In response to the same, petitioner submitted detailed explanation.

2. By orders in G O Ms No. 133 dated 17.10.2012 petitioner was visited with punishment of withholding of one annual increment with cumulative effect with effect on his pension. Challenging the same, petitioner filed O.A. No. 1620 of 2013, which is transferred to this Court and numbered as W.P.(TR) 345 of 2017.

3. As a preliminary issue, learned counsel for petitioner contended that the order impugned is liable to be set aside on the sole ground that it does not contain reasons in support of the decision and the explanation submitted by the petitioner to the dissent note communicated to the petitioner vide memo dated 9.5.2011.

4. Rule 21 of the Telangana Civil Services (CCA) Rules, 1991 deals with the situation arising after report of the enquiry officer is submitted. The Rule deals with three contingencies, firstly if disciplinary authority agrees with the findings of the enquiry officer whether exonerating or recording finding of guilt, he can

proceed further to drop the proceedings if exonerated or to issue notice circulating the copy of the enquiry report and call for explanation/ objections on the report of the enquiry officer. If disciplinary authority is not agreeing with any of or all the findings of the enquiry officer and based on the material available on record, the disciplinary authority intend to dissent with the findings, it shall record the dissent note on the findings of the enquiry officer and call for the explanation of the delinquent employee and if disciplinary authority is not agreeing with the manner in which enquiry was conducted and findings are recorded, in a given case, he may order for denova enquiry.

5. In the case on hand, out of findings on all the 4 charges, the disciplinary authority was not agreeing with the finding of enquiry officer on the first charge and communicated the dissent note. Sub Rule (2) read with Sub Rule (3) mandate that once dissent note is communicated and explanation is called, the disciplinary authority shall consider the representation/ explanation submitted by the employee and record its findings before proceedings further with reference to imposing the punishment. A bare reading of the order would show that no reasons are assigned on the explanation submitted by the petitioner to the dissent note. The impugned order reads all the steps taken so far including submission of explanation cum consultation of the public service commission but there is no discussion on the explanation submitted by the petitioner and reasons for not accepting it and confirming the dissent note already communicated to the petitioner. As the order impugned in the writ petition has severe penal consequences including effect on the pension which petitioner can draw after retirement and as learned counsel for petitioner submitted that he was also denied promotion on account of pending disciplinary proceedings that resulted in imposing punishment impugned in the writ petition, the order has to meet the parameters of in Rule 21 to sustain the same. As noticed above, the order is bereft of reasons and same is in violation of Rule 21 (3) of the CCA Rules and liable to be set aside on that ground alone and the same is hereby set aside.

6. Since the order is set aside on the ground of violation of mandate of Rule 21, the Court is inclined to remit the matter to the disciplinary authority to the stage of consideration of the explanation submitted by the petitioner on the dissent note dated 9.5.2011 to consider the explanation submitted by the petitioner and to pass final orders by assigning reasons in support of its decision within a period of six weeks from the date of receipt of copy of this order. It is needless to state that all other issues are left upon for petitioner to agitate in appropriate proceedings.

6. Accordingly, the writ petition is allowed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE: 26.7.2017
TVK



P NAVEEN RAO,J

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