

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.12165 OF 2017

DATED : 06.04.2017

Between :

Mrs.Kavitha W/o.Venuprasad,
Aged 47 yrs, Occu : Employee,
R/o.10-5-779/1, Sainagar,
Tukaram gate, Secunderabad.

..
Petitioner

And

The Telangana State Dairy Development Co-operative
Federation Ltd., Lalapet, Hyderabad,
Rep., by its Managing Director & another.

..
Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.12165 of 2017

ORDER :

Heard.

2. Petitioner worked as Deputy Director in Telangana State Dairy Development Co-operative Federation Limited. In this writ petition, petitioner challenges the charge memo dated 22.03.2017.

3. Petitioner challenges the said charge memo on the ground that in accordance with by-law No.27 (2) of the respondent-Federation, only if by a resolution of the Federation, disciplinary action can be initiated and in the instant case, there is no such resolution.

4. By-law No.27 (2) reads as under :

“27 (2) INITIATION OF DISCIPLINARY PROCEEDINGS :

“(a) The Appointing Authority or any authority to which it is sub-ordinate or any other authority authorised in that behalf by the Federation by a resolution, shall initiate disciplinary proceedings against an employee in a case calling for disciplinary action under these Rules.

(b) The Competent Authority under clause (a) above may itself conduct enquiry in accordance with the provisions of Rule 29 or subject to the order of the Managing Director or any other authority superior in rank to the employee charged, to conduct an enquiry.

Note : The authority conducting an enquiry in clause (b) shall be referred to an Inquiry Authority. “

5. A bare perusal of the said by-law, it is clear that the authorisation by the Federation, by a resolution, is necessary only in case power to take disciplinary action is intended to be vested in

any other authority other than the appointing authority or the authority higher than the appointing authority. Thus, this contention is rejected.

6. Learned counsel for the petitioner next sought to contend that the charges are vague and they are made only to harass and humiliate the petitioner and sought to make submissions on merits on the allegations made in the charge memo.

7. This Court cannot go into the validity of the allegations levelled against the charge memo at the initial stage itself. It is for the petitioner to raise all objections as permissible and available to him and it is for the competent authority to consider those objections. Thus, this Court is not inclined to enter into the issue of validity of the allegations made at the preliminary stage. The jurisdiction under Article 226 of the Constitution of India is not to be exercised at the preliminary stage, as long as charge memo is issued by the competent authority.

8. However, having regard to the nature of allegations, the enquiry should not take much time and therefore, the respondents are directed to conclude the disciplinary action, as expeditiously as possible, preferably within a period of three (3) months, from the date of receipt of copy of this order. The petitioner shall file her explanation within one week from the date of receipt of copy of this order and shall also cooperate for early conclusion of the disciplinary proceedings.

9. At this stage, learned counsel for the petitioner further contends that the petitioner is not paid subsistence allowance. It is needless to observe that a suspended employee is entitled to

subsistence allowance and such employee cannot be compelled to participate in the disciplinary action unless subsistence allowance is paid. Thus, the respondents are directed to release the subsistence allowance and continue to pay the same until the petitioner's suspension is revoked or the disciplinary action is concluded.

10. With the above directions, the writ petition is disposed of. There shall be no order as to costs.

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

6th April, 2017
Rds



P.NAVEEN RAO,J