

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR) No. 3 of 2017

Date :22.6.2017

Between :

K Chandrakumar Reddy S/o Bal Reddy
O/o The Executive Engineer, Designs Wing II
N S R S Srisailem project VI floor, Gagan Vihar complex
Vikasnagar, Dilsukhnagar, Hyderabad

Petitioner

And

The District Collector, Mahabubnagar and others

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner and learned Government Pleader for Services –II (TG) for respondents.

2. Petitioner was provided appointment as Typist on 15.7.1992 under the scheme of provision of employment to displaced persons in terms of G O Ms. No. 98 dated 15.4.1986, while establishing irrigation project. Case of the petitioner was that house property belonging to petitioner's family was acquired for construction of Srisailem Project Backwater in Koppunur village, Weepanagandla mandal and petitioner was provided employment under the said scheme. It appears, the District Collector received complaint alleging false claim of displacement and employment under G O Ms No. 98 dated 15.4.1986 was made by the petitioner. The Collector vide letter dated 20.12.2008 requested the Chief Engineer, NSRS Srisailem Project/second respondent for cancellation of appointment of the petitioner immediately. Thereafter, the Superintending Engineer/third respondent, being disciplinary authority, vide memo dated 15.5.2009 communicated the charge memo to the petitioner calling for his explanation. According to petitioner, he submitted his explanation on 25.5.2009. At that stage, O.A. was instituted before the A.P. Administrative Tribunal.

3. It is primarily contended that content of the letter of the District Collector addressed to second respondent would show that there was a decision taken already to terminate the services of the petitioner and same is illegal, as no such termination can be made without following the due process. It is further contended that as the decision to terminate the services was already taken by the Collector, the charge memo issued thereafter is vitiated as it is nothing but a post-decisional exercise since higher authority has come to a decision to throw the petitioner out of employment.

4. It is no doubt true that District Collector vide his letter dated 20.12.2008 expressed cancellation of appointment to be made immediately but District Collector is not the disciplinary authority but Superintending Engineer is the disciplinary authority. On scanning through the charge memo including the statement of imputations, there is no whisper on the direction issued by the District Collector. Further more, a reading of it would show that the disciplinary authority was examining the issue independently and having come to prima facie opinion that appointment was not properly secured, charge was framed. Further, the Superintending Engineer is not under the administrative control of District Collector and he is not his subordinate, therefore, question of command of the District Collector being followed in verbatim does not arise.

5. It is not in dispute that Superintending Engineer is competent authority and a look at the charge memorandum would show that there was application of mind before formulating the charge. Thus, the disciplinary proceedings initiated against the petitioner cannot be said to be vitiated on the grounds sought to be urged by the learned counsel for petitioner. Further more, disciplinary proceedings initiated vide memo dated 15.5.2009 cannot be linked to the internal correspondence between the Collector and the Chief Engineer as reflected in letter dated 20.12.2008 and the same cannot give rise to cause of action to the petitioner to institute O.A.

6. Thus, I do not see any error warranting interference at the threshold of initiation of disciplinary action.

7. Though charge memo was issued on 15.5.2009 in view of the stay granted by APAT, so far, there is no progress in the enquiry. Thus, this Court directs the Superintending Engineer/third respondent to complete the disciplinary action within a fixed time frame preferably within three months from the date of receipt of copy of this order. He shall determine the calendar for verification of documents, holding of enquiry and all other required formalities. On the dates fixed, the petitioner shall appear and cooperate with the enquiry proceedings and

shall not drag on the matter. It is open for the disciplinary authority to proceed further in the event petitioner does not cooperate in early completion of the enquiry.

8. It is also made clear that all issues are kept open and disciplinary authority should independently consider the charge leveled against the petitioner based on the material available on record, uninfluenced by the content of the letter of the District Collector addressed to the Chief Engineer on 20.12.2008.

9. Interim order granted earlier stands vacated. The writ petition is dismissed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE: 22.6.2017
TVK



P NAVEEN RAO,J

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