

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.25864 of 2015

ORDER: (*Per MGR,J*)

This Writ Petition, under Article 226 of the Constitution of India, is filed against the dismissal order, dated 28.07.2015, passed in O.A.No.2509 of 2015 by the Andhra Pradesh Administrative Tribunal, Hyderabad (for brevity 'Tribunal').

2. The said O.A. was filed to declare the action of the 1st respondent in terminating the services of the petitioner vide proceedings dated 28.04.2015 in Rc.No.1916/2014/S11, as illegal, arbitrary and without inquiry; set aside the same; and for consequential direction to the 1st respondent to reinstate him into service with all consequential benefits.

3. The case of the petitioner is that he was appointed on contract basis as Forest Beat Officer on 04.04.2007 in Cheerlavanha Beat of Siricilla Range, Karimnagar District. Thereafter, he was transferred to Nagnoor of Jagitial Range and working as such since 13.07.2011. While the petitioner was working at Jagitial Range, on 17.05.2014, the Sub-Divisional Forest Officer, Jagitial, has conducted Beat inspection at Nagnoor Beat in the presence of the petitioner and Forest Section Officer, Allipur, and found four Teak logs measuring 0.8409 cm., valued at Rs.42,423/- to be present and found missing of 12 logs measuring 1.0654 cm., valued at Rs.58,670/-. The total

destruction worth Rs.1,01,093/- was noticed in compartment No.601 of Arsikota of Nagnoor Beat within a span of 15 days. The petitioner and the Forest Section Officer, Allipur, had accepted the same and signed at Page No.88 in the Beat Felling Enumeration Register. Upon verification of Beat Felling Enumeration Register, for the months of 4/2014 and 5/2014, it was observed that during the perambulation in Reserve Forest Compartment No.591 and 601 of Nagnoor Beat, large scale destruction was noticed, within a short span of time. It was also detected felling of 15 teak from S.No.1 to 15, as recorded in Beat Felling Enumeration Register at Page No.26 and 27 of Nagnoor Beat. The petitioner had signed in the Register accepting the contents recorded in the Register by the Flying Squad Party, Karimnagar, on 09-04-2015 and 10-04-2015. The value of the material is Rs.64,815/- and missing material is Rs.2,02,037/-, total value is Rs.2,66,852/-. Further, the petitioner failed to maintain the details of stumps in the Beat Felling Enumeration Register and failed to register the cases for the present material at the stump site.

4. For the above destruction, the 1st respondent had issued a show-cause notice of termination dated 12.06.2014 in Rc.No.1916/2014/S11, stating that during the tenure of the petitioner, the total value of the destruction of forests in Nagnoor Beat, was estimated at Rs.3,90,590/- and as to why the services of the petitioner should not be terminated, for violation of condition No.4 of the agreement. In response to the same,

the petitioner submitted a representation on 18.06.2014 to the Forest Mandal Officer, Karimnagar (West), requesting to furnish the copies of documents enumerated in his representation. Accordingly, the petitioner was supplied with the documents sought by him. Thereafter, on 15.07.2014, the petitioner submitted his detailed explanation stating in particular that *"I hereby swear sir, any type of mistake would not be committed by me and I will be attentive and discharge the Government services with much care and worship"*.

5. Even after petitioner swearing that he will discharge his duties with utmost care, again on 09-04-2015 and 10-04-2015 a large scale destruction worth Rs.2,66,852/- was noticed in Nagnoor Beat in the presence of the petitioner and thereby he has not shown any improvement in protecting the forest under his jurisdiction and he continued to work under mistrust and negative attitude. Therefore, it is crystal clear that even after submission of explanation, the petitioner did not attend the duties faithfully and no effective measures were taken by him, which resulted in fiscal loss of Rs.3,90,590/- to the Government. Further, though contract period was over long back, the respondents continued his services, till his termination.

6. Taking into consideration the above facts and circumstances and the explanation submitted to the show cause notice, the services of the petitioner were terminated by proceedings dated 28.04.2015 in Rc.No.1916/2014/S11.

Aggrieved by the said order of termination, the petitioner filed O.A.2509 of 2015 before the Tribunal. The Tribunal after considering the submissions of both the counsel and after elaborately discussing the issue in question, dismissed the O.A. holding that the petitioner was given ample opportunity, after issuance of show cause notice, for improvement of his performance; order of termination was passed as per condition No.4 of the agreement; and there is no illegality or infirmity in the termination order.

7. Being aggrieved by the said dismissal of the O.A., petitioner filed the present writ petition contending *inter alia* that termination order passed by the 1st respondent is without conducting departmental inquiry and giving opportunity of hearing and participation in the departmental inquiry and further contending that the Tribunal had not considered the submissions and judgments putforth by the counsel for the petitioner in proper perspective. Further, the counsel for the petitioner relied on the judgment of the learned single Judge of this Court in *K.Laxmanna and others v. Government of Andhra Pradesh, Agriculture and Co-operation (Agri.III), Department rep. by its Secretary and others*(¹) to buttress his contention that termination without notice is contrary to the Doctrine of Fairness and is in violation of principles of natural justice. Facts therein are that the petitioners, who were 'Adarsha Rythus' and in service on payment of 'honorarium',

¹ 2011(1) ALT 452

were terminated on the premise that their performance is rated as 'poor' by Mandal Agricultural Officers concerned. In fact, the Government Pleader appearing on behalf of the Government fairly conceded that impugned memos were not preceded by a prior notice. In those circumstances and after referring to the catena of decisions of Hon'ble Apex Court, the learned single Judge held that termination of the petitioners' services as 'Adarsha Rythus' cannot sustain in law. Whereas, in the case on hand, the petitioner was given a show cause notice and after considering his explanation, his services were terminated. Hence, the case relied on by the learned counsel for the petitioner has no application to the facts of the present case.

8. We have carefully perused the order of the Tribunal and considered the submissions made by both the counsel.

9. A show cause notice, dated 12.06.2014, was issued to the petitioner, which contains full details of lapses on the part of the petitioner, destruction caused in the Beat jurisdiction of the petitioner and also the financial loss caused to the Forest department. The petitioner had submitted his explanation to the show cause notice on 15.07.2014 swearing that he will be attentive in discharging his duties with much care and worship, in future. In spite of the same, the petitioner failed to improve his performance in discharging the duty of protecting the Forest under his Beat jurisdiction and caused loss to the department. Thus, we find, as rightly observed by the Tribunal, that there is no change in the behaviour of the petitioner in discharging his

duties faithfully. We, further, noticed that though the petitioner's contract period was over by 2010, he was continued by the respondents beyond the contractual period. Moreover, the petitioner was terminated from service after duly considering his explanation to the show cause notice, based on the evidence available on record, as per condition No. 4 of the agreement. As per that condition, *the 1st respondent has right to terminate the contract agreement appointment at any time without assigning any reason by giving one month's notice to the applicant or by paying one month's emoluments in lieu thereof.*

10. It is contended by the learned counsel for the petitioner that the impugned order of termination of the contract has been passed, not for the original act of omission on the part of the writ petitioner, but for his subsequent conduct in not being vigilant even after assuring that he will be careful in future. According to the learned counsel, no fresh show cause notice was issued, for the second incident and that therefore, the impugned order is vitiated for violation of the natural justice.

11. We do not agree. In response to the allegation relating to the first incident, the petitioner gave a letter admitting the mistake and agreeing to be careful in future. There is nothing to show that the letter was accepted and the petitioner was let off. Therefore, the petitioner cannot claim that for the second incident, a separate show cause notice ought to have been issued.

12. More over it must be remembered that the petitioner was only on contract with the department. He was not appointed in accordance with the Service Rules. He had not become the holder of a civil post or appointed to a post in the Civil Services of the State. This is why the petitioner is unable to claim that disciplinary proceedings ought to have been initiated in terms of Civil Services (Classification, Control and Appeal) Rules.

13. Once it is admittedly a contractual employment, the termination of the contract in accordance with the terms and conditions of the contract, cannot be interfered with.

14. Thus, viewed from any angle, we find no infirmity or illegality in the impugned order passed by the Tribunal and, therefore, the writ petition deserves to be dismissed and is, accordingly, dismissed.

15. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

M.GANGA RAO, J

1st November, 2017
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