

HON' BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON' BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.15032 of 2002

Date: 12.10.2017

Between:

B. Yadagiri

..Petitioner

And

The Chairman & Managing Director, A.P.C.P.D.C.L,
Sngareni Collieries Bhavan, Lakdikapool,
Hyderabad and 2 others.

..Respondents

Counsel for the petitioner: Sri B. A. Prakash Reddy

Counsel for the respondents: None appeared

The Court made the following:



ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for issue of *Certiorari* to quash the proceedings vide Memo No.SE/ OP/ NLG/ ADM/ D.No.488/ 200 dated 31.05.2000 of respondent No.2 and Memo No.DS(HRD)/ AS-II/ PO-II/ 28/ 2002-4 dated 24.06.2002 of respondent No.1.

At the hearing, there is no representation for the respondents. We have heard Sri B.A. Prakash Reddy, learned counsel for the petitioner.

While working as Upper Division Clerk, the petitioner was subjected to the disciplinary proceedings wherein the following charges were framed:

"CHARGE No.1.

Sri B. Yadagiri, U.D. Clerk, is reported to have addressed petitions direct to Honourable Chief Minister by his designation as U.D.Clerk indicating himself as "Mee Abhimana Patrudu Kriya Seelaka Sabhyudu" casted allegation against Asst. Divl. Engineer, Operation, Ramannapeta and Ramannapeta defeated Congress M.L.A., by name without competence and arranged for news item publication without the knowledge of his superiors and Board officials, thus violated Regulation Nos.4(ii) (vi)(xi) of Employees Conduct Regulations. Thus he failed to maintain disciplined path of Service Regulation and failed to uphold absolute integrity expected from him, thus shattered the image of Board before public and thus committed Misconduct as per A.P.S.E. Board Employees Conduct Regulations.

CHARGE No.II.

Sri B. Yadagiri, U.D. Clerk is reported to have failed in performing his legitimate duties and suffered the staff without payment of salaries in time for the month of 10/ 94. He thus failed in devotion to duty did not act in disciplined manner towards superiors and sub-ordinates did not extend full cooperation to superiors and staff in discharge of legitimate functions, did not uphold absolute integrity expected from him and committed misconduct as per APSE Board Employees Conduct Regulations.

CHARGE No.III.

Sri B. Yadagiri, U.D. Clerk, is reported irregular, negligent, dis-obedient, and in-disciplined in discharging of his legitimate duties, thus he failed to be dutiful with absolute integrity which were expected from him. He thus committed mis-conduct as per A.P.S.E. Board Employees Conduct Regulations.

CHARGE No.IV.

Sri B. Yadagiri, U.D. Clerk is reported to have absented himself from duty and absconded on 07.12.1994 from 4.00 p.m to 08.12.1994 and also on 09.01.1995 without proper permission and prior sanction of leave from competent authorities and dislocated important office work apart from being irregular, none dutiful and disobedient."

The petitioner submitted his explanation to the charge memo. Not satisfied with the explanation, respondent No.2 has appointed an Enquiry Officer, who submitted his enquiry report dated 19.09.1996, holding that the charge Nos.1 and 2 were proved and that charge Nos.3 and 4 were not proved. The petitioner has submitted his explanation on receipt of the enquiry report on 10.05.2000, wherein he has taken the stand that on the same set of charges, he has already suffered a penalty and therefore, further action may be dropped. Respondent No.2 has accepted the findings of the Enquiry Officer with regard to the charge Nos.1 and 2 and imposed on the petitioner a penalty of withholding three annual grade increments with cumulative effect. The appeal filed by the petitioner ended in its dismissal vide a Memo No.DS(HRD)/ AS-II/ PO-II/ 28/ 2002-4 dated 24.06.2002 issued by the respondent No.1. Assailing both these orders, petitioner has filed the present writ petition.

The petitioner has specifically pleaded in his affidavit that he has already suffered an order on the earlier occasion for substantially similar charges by way of imposition of penalty of withholding of two increments

with cumulative effect and therefore, the action of the respondents in visiting the petitioner with another penalty is wholly arbitrary and illegal.

No counter-affidavit has been filed by the respondents.

The petitioner has filed the copies of Memo No.GM(Per)/ DE/ DC/ 461-R2/ 98-7 dated 18.06.2002 passed by the Joint Managing Director, H.R.D, A.P.C.P.D.C.L. and the Memo No.CE/ ENQ./ DM.V/ 1249-R1/ 94-5 dated 17.04.1997 passed by the Chief Engineer/ Enquiries, A.P. State Electricity Board. A perusal of the first mentioned memo issued by the Chief Engineer/ Enquiries shows that on 03.10.1996, the erstwhile Andhra Pradesh State Electricity Board has issued the show cause notice to the petitioner proposing the punishment of stoppage of two increments with cumulative effect for claiming two false T.A. bills and the other irregularities and after considering the explanation of the petitioner the Disciplinary Authority has imposed on the petitioner the penalty of withholding two increments with cumulative effect. Memo No.GM(Per)/ DE/ DC/ 461-R2/ 98-7 dated 18.06.2002 was issued on the appeal filed by the petitioner against Memo dated 13/ 17.04.1997 imposing the afore mentioned penalty on the petitioner. It is evident on paragraph No.4 of the said order, issued by the Joint Managing Director of the said Memo issued by the Joint Managing Director (H.R.D.) of the Transmission Corporation of A.P.C.P.D.C. Limited, which Andhra Pradesh Central Power Distribution Corporation Company Limited has succeeded. The Joint Managing Director has stated that the petitioner has complained to the then Honourable Chief Minister without prior approval of the Board which constitutes misconduct. The appeal filed by the petitioner was accordingly rejected.

The above discussed documents would show that the erstwhile employer of the petitioner has not followed the due procedure of holding an enquiry before imposing upon him the major penalty of withholding of two increments with cumulative effect. However, since the said order is not the subject matter of this writ petition, it is not necessary for us to adjudicate the validity or otherwise of the said order. However, this order assumes relevance for the disposal of the present case, because as could be clear from the order dated 18.06.2002 passed by the Appellate Authority, Charge No.1 pertaining to the latter disciplinary proceedings which are subject matter of the present writ petition appears to be common viz., that the petitioner has made complaint to the then Honourable Chief Minister against certain employees. We are surprised that the petitioner is subjected to successive enquiries with respect to the same charge and made to suffer two major penalties. The assertion of the petitioner made in this regard remains un-controverted. Once the major penalty of withholding of two increments was imposed on the petitioner on Charge No.1, it is not only impermissible but also inequitable for the respondents to subject the petitioner to another disciplinary proceeding that the said charge is being framed as a substantive charge by way of charge No.1. Therefore, if charge No.1 is eschewed from consideration, only the other charge that remains to be considered is charge No.2 which was held to be proved. The alleged misconduct against the petitioner under this charge is that he failed to ensure payment of salaries to the staff within time for the month of October, 1994. In our opinion, imposition of a major penalty on this charge shocks the consensus of the Court. Even assuming that there was some delay in payment/disbursement of the salaries, it would be highly unreasonable to impose a major penalty on the petitioner, more so, when he was already slapped with a major penalty of withholding of two increments.

From whole concepts of the facts of the case, it appears that the top brass of the organization was prejudiced by the complaining approach of the petitioner as regards to the alleged corruption in the organization and the successive major penalty imposed on the petitioner reflects the hostile attitude displaced by the management against the petitioner.

In the light of the above discussion, we are of the opinion that the ends of justice would be met, if the penalty imposed on the petitioner for finding guilty of charge No.2 is converted into one of withholding of two increments without cumulative effect.

Accordingly, the Memo No.SE/ OP/ NLG/ ADM/ D.No.488/ 2000 dated 31.05.2000 of respondent No.2, as confirmed by Memo No.DS(HRD)/ AS-II/ PO-II/ 28/ 2002-4 dated 24.06.2002 of respondent No.1, stand modified and the writ petition is allowed to the extent indicated above. No order as to costs.

As a sequel to allowing the writ petition, W.P.M.P. No.18813 of 2002 is disposed of infructuous.

C. V. NAGARJUNA REDDY, J

KONGARA VIJAYA LAKSHMI, J

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(per Hon'ble Sri Justice C. V. Nagarjuna Reddy)



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