

The Hon'ble Sri Justice V. RAMASUBRAMANIAN
and
The Hon'ble Sri Justice M. GANGA RAO
+ WRIT PETITION No.43809 OF 2017

Date:22.12.2017

Between:

%Pagadala Venkata Siva Prasad S/o.Late Guruvayya,
Aged about 43 years, working as Junior Assistant,
O/O.Tahisdar, Pullala Cheruvu (Village) and (Mandal)
Ongole, Prakasam District.

...Petitioner

Vs.

\$ The State of Andhra Pradesh, Rep. by its Principal
Secretary, Revenue, Secretariat, Amaravathi,
Guntur District, Andhra Pradesh and others.

... Respondents

! Counsel for Petitioner : Sri G.U.R.C. Prasad

^ Counsel for Respondents : G.P. for Services-I (AP)

< Gist :

> Head Note :

? Cases referred : Nil



HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.43809 OF 2017

ORDER: (per V. Ramasubramanian, J)

Aggrieved by the dismissal of his challenge to a charge memo and rejection of his claim for his promotion, by the Andhra Pradesh Administrative Tribunal, the petitioner has come up with the above writ petition.

2. Heard Mr. G.U.R.C. Prasad, learned counsel appearing for the petitioner.

3. The petitioner challenged the charge memo primarily on three grounds, namely, (a) that under Appendix-III read with Rule – 14(2) of the first proviso to the Special Rules, the District Collector was not the authority competent to issue the charge memo, (b) that the petitioner merely acted as a postman in delivering a sealed envelope in the office of the District Collector, which contained a letter prepared by the Deputy Tahsildar, the contents of which have been made the imputations of misconduct against the petitioner though he was not the author of the contents and (c) that in any case, there has been delay in conclusion of the proceedings, resulting in the denial of promotion to the petitioner.

4. We have carefully considered the above submissions.

5. Insofar as the Appendix-III is concerned, the Tahsildar is named as the authority competent to impose the penalty of censure under Rule - 9(i) in respect of the staff except Deputy Tahsildars employed in the offices of the Tahsildars. The Tahsildar is also named as the person entitled to award the penalty of withholding of

increments. But this does not denude the power of the District Collector, who is a Superior Officer, to issue a charge memo. Therefore, the 1st contention cannot be accepted.

6. The 2nd contention actually constitutes a defence to the charges. However good a defence to a charge may be, the same cannot be a ground to quash the charge. The defence is something that should be established in the course of the enquiry. Therefore, the second contention cannot be accepted.

7. Insofar as the rejection of the claim for promotion, on the ground of prolongation of the proceedings is concerned, any delay in the conclusion of the proceedings by itself, will not cloth a person with a right to be considered for promotion. The Tribunal has found in paragraph-3 that the applicant had not filed the written statement and defence to the charge memo. In such circumstances, the delay in entirety cannot be attributed to the respondents.

8. Hence, we find no grounds to interfere with the order of the Tribunal. Therefore, the writ petition is dismissed. However, in the interest of the administration and in the interest of the petitioner, the respondents shall conclude the proceedings and pass final orders within a period of three (3) months. However, the petitioner should also cooperate in the conclusion of the enquiry.

9. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

December 22, 2017
KTL