

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.21875 of 2006

ORDER

The petitioner, who is working as Assistant Project Manager in the 2nd respondent-District Rural Development Agency, filed this writ petition, being aggrieved by the proceedings No.A3/60/2003, dated 28.7.2006, of the 1st respondent, whereunder, he was repatriated to his parent department i.e., DPMU, Medak, on the complaint filed by the E.O (D), Miryalaguda and the President, Secretary & Treasurer, Mandal Samakhya, Miryalaguda.

The case of the petitioner is that he was selected and appointed as a Assistant Project Manager on consolidated pay of Rs.8,500/- per month including allowances *vide* proceedings in R.C.No.V5/APMs/APRPRP/2003, dated 04.04.2003 by the Projector Director, APRPRP-Velugu, Medak at Sanga Reddy. The petitioner submitted an application dated 12.01.2004 to the Project Director, APRPRP-Velugu, Medak and Nalgonda Districts, to post him as Assistant Project Manager, District Rural Development Agency, Indira Kranthi Patham, Nalgonda District, as his wife is a Government employee and working in Nalgonda District. With the consent of both the Project Directors, his request was considered and he was transferred to Nalgonda District

as Assistant Project Manager. The petitioner contended that he was transferred on administrative ground and there is no appointment in the parent department like regular Government posts. While working at Miryalaguda, Nalgonda, District, the President, Secretary and Treasurer, appeared to have given a complaint on 06.06.2006 against the petitioner alleging that he had misbehaved with them. Copy of the complaint was not given to the petitioner and no enquiry was conducted against him. However, again the said persons, gave complaint on 08.06.2006 to the District Collector (Chairman) and Project Director, Nalgonda District, and later, the same was withdrawn on 08.06.2006. The petitioner was under the impression that the District Collector and Project Director, Nalgonda District, had dropped further action in the matter. As he was not paid regular salary, he submitted representations on 07.08.2006 and 03.10.2006 to the respondents to pay salary and other allowances. But no action has been taken thereon. Thereafter, the petitioner was transferred to District Rural Development Agency, Indira Kranthi Patham, Medak District, as Assistant Project Manager, *vide* proceedings dated 28.07.2006 of the 1st respondent. Similar orders were not given to Balaswamy

against whom same complaint was given. Challenging the same, the present writ petition is filed.

While admitting the writ petition, on 23.10.2006, this Court granted status quo. Pursuant to the same, the petitioner was not relieved. Thereafter, this Court made the interim order absolute on 1.10.2007 *vide* WVMP No.2560 of 2006.

Counter-affidavit has been filed on behalf of the 2nd respondent stating that the petitioner was appointed as Assistant Project Manager, D.R.D.A, Medak, on contract basis. After working for few months, he made a representation on 12.01.2004 seeking to transfer him to Nalgonda 12.01.2004 and the same was forwarded to the Chief Executive Officer, Society for Elimination of Rural Poverty, who in turn, vide letter dated 17.05.2004 informed that transfer of Assistant Project Manager does not come under State Project Management Unit. Thereafter, the petitioner was transferred to the office of the Project Director, Nalgonda, and posted as Assistant Project Manager. The appointment of the petitioner was by way of notification issued by the Project Director, Medak, for a vacancy of Assistant Project Manager, in his jurisdiction. Therefore, the petitioner is the employee of the Project Director, DRDA, Medak, and his transfer to Nalgonda was purely at his request. While accepting his request, certain

conditions were imposed vide Memo dated 7.7.2004 and one of the conditions is that he will be repatriated in case his performance is not up to the mark. On 06.06.2006, a complaint was filed by one Kumari, E.O, DWAKRA, and others alleging that the petitioner has withdrawn a sum of Rs.9,000/- and prepared Micro Credit Plans (MCP) worth Rs.3,50,000/-, but the alleged withdrawal dated 8.5.2006 does not contain the signature of the said Kumari. Based on the said complaint, Additional Projector Director, Special Grade Deputy Collector, conducted an enquiry in the presence of the petitioner and submitted a report on 10.07.2006 stating that the performance of the petitioner was not up to the mark. Hence, the petitioner was transferred to his parent office i.e., Project Director, DRDA, Medak. When the petitioner was informed to come and collect his transfer orders, he failed to do so, and therefore, responsibility was given to the Community Co-ordinator to serve the transfer order. The community Co-ordinator submitted a report on 29.07.2006 stating that the petitioner has refused to take transfer order. On the same day, transfer order was sent by registered post, which was returned un-served on 4.8.2006 with an endorsement that the petitioner was not available. An amount of Rs.7,000/- per month has been paid to the petitioner and

the balance amount of F.T.A and motor cycle allowance would be paid after the receipt of work done report, which is to be filed by the petitioner himself to claim the same. Thereafter, the petitioner went to the office on 09.10.2006 and collected the transfer order and instead of joining in the parent department, he approached this Court. There is no illegality in the impugned order of transfer repatriating the petitioner to his parent department.

Sri P.Narasimha, learned counsel appearing for the petitioner, would contend that the petitioner was repatriated/transferred as a measure of punishment and in spite of *status quo* order dated 23.10.2006, which was made absolute on 01.10.2007, he was not allowed to discharge his duties and the office of the 2nd respondent has not paid any wages. The petitioner was made to suffer financially and to maintain his family due to non-payment of salary. Hence, the action of the respondents in not allowing the petitioner to discharge his functions and non-payment of the salary is arbitrary and illegal and the impugned order is liable to be set aside, by directing the respondents to continue the petitioner as Assistant Project Manager, District Rural Development Agency, Indira Kranthi Patham, Nalgonda District at Miryalaguda and pay salary.

Per contra, the learned Assistant Government Pleader appearing for the 2nd respondent would contend that at his request only, the petitioner was transferred to the office of the 2nd respondent, subject to condition that he should be repatriated to his parent department when his work is not up to the mark. Since the work of the petitioner appears to be not satisfactory, he was repatriated to his parent office vide impugned order dated 28.07.2006. When the transfer order was tried to be served on the petitioner, he refused to receive the same. As on the date of *status quo* order granted by this Court on 23.10.2006, which was made absolute on 01.10.2007, the petitioner was not discharging his duties in the post. Hence, he was not allowed to discharge his duties and was not paid the salary. Learned Government Pleader orally submits that the petitioner submitted a resignation letter and the same was not accepted due to pendency of the writ petition and that the petitioner was paid salary from May, 2006 to July, 2006. He would further submit that the petitioner left the project on 31.5.2007 and his name was not shown in the web site, but the same was not brought on record.

As can be seen from the records, the petitioner was selected and appointed as Assistant Project Manager on consolidated pay of Rs.8,500/- per month including

allowances *vide* proceedings in R.C.No.V5/APMs/APRPRP/2003, dated 04.04.2003, by the Projector Director, APRPRP-Velugu, Medak at Sanga Reddy. The petitioner submitted an application dated 12.01.2004 to the Projector Director, APRPRP-Velugu, Medak and Nalgonda Districts, to post him as Assistant Project Manager, District Rural Development Agency, Indira Kranthi Patham, Nalgonda District, as his wife is a Government employee and working in Nalgonda District. With the consent of both the Project Directors, his request was considered and he was transferred to Nalgonda District as Assistant Project Manager, subject to condition that he will be repatriated in case his performance is not up to the mark. Thereafter, he was repatriated to his parent office.

It appears that the petitioner was repatriated and transferred to his parent office alleging certain mis-behaviour and mis-conduct. The impugned order was passed after repatriation/transfer of the petitioner as a measure of punishment without conducting any proper enquiry and notice. The impugned order is silent about conducting of enquiry in respect of the said allegation.

Accordingly, the Writ Petition is allowed by setting aside the impugned order. The 2nd respondent is directed to allow

the petitioner to duty and consider his case for payment of salary and other allowances, as per rules, within a period of two months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.GANGA RAO

9th August, 2018
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