

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL No.570 OF 2018

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

This appeal under Clause 15 of the Letters Patent arises out of the order dated 08.02.2018 passed by a learned Judge of this Court allowing W.P.No.40453 of 2016, setting aside the orders dated 07.09.2015 and 20.01.2016 impugned therein and directing the Project Director, Water Management Agency-cum-Joint Secretary, Society for Rural Development Services, Nalgonda, the fourth respondent, to conduct a proper enquiry into the matter after supplying the material sought to be relied upon to the writ petitioner; give the writ petitioner an opportunity to rebut the same; complete the enquiry into the charges levelled against him; and pass a reasoned order in accordance with law. The learned Judge directed this exercise to be concluded within four months from the date of receipt of a copy of the order. Further, the contract of the writ petitioner was directed to be renewed and he was directed to be paid salary from 07.09.2015 till a final order was passed by the fourth respondent afresh. Aggrieved by these directions, the fourth respondent in the writ petition is in appeal.

Heard Sri M.S.R.Chandra Murthy, learned counsel representing Smt.R.Padma Rekha, learned counsel for the appellant/fourth respondent, and Sri M.Venakat Ram Reddy, learned counsel for the first respondent/writ petitioner.

Perusal of the record reflects that the first respondent/writ petitioner was appointed as a Technical Assistant on contract basis and was initially allotted to the Mandal Parishad, Peddavoora. Certain charges

were framed against him in relation to his discharging duties in the said capacity at Tripuraram Mandal in Nalgonda District. After considering his explanation in response to show-cause notices dated 28.10.2014 and 23.01.2015, the appellant/fourth respondent passed order dated 07.09.2015 terminating his services. He was also directed to pay the alleged misappropriated amount of Rs.33,31,492/- in the shape of a demand draft drawn in favour of the Director, Rural Development, Telangana, from any Nationalised Bank. Aggrieved thereby, the first respondent/writ petitioner preferred an appeal before the Member Secretary, Society for Rural Development Services, Office of the Commissioner, Rural Development, Telangana. The said appeal was dismissed by the appellate authority *vide* order dated 20.01.2016. Aggrieved thereby, the first respondent/writ petitioner filed the subject writ petition.

By the order under appeal, the learned Judge opined that neither the original authority nor the appellate authority acted in accordance with the due procedure in dealing with the case of the first respondent/writ petitioner. The learned Judge observed that when a liability of Rs.33,31,492/- was sought to be imposed upon the first respondent/writ petitioner, the authorities concerned had to consider the case more elaborately and could not simply brush aside the contentions of the first respondent/writ petitioner in one sentence. The learned Judge also found that no witnesses were examined and no documents were marked during the course of the enquiry by the appellant/fourth respondent before passing the order dated 07.09.2015.

Having considered the matter, we are of the opinion that the Disciplinary Rules for Fixed Tenure Employees of Society for Rural

Development Services, 2012, which enunciate the manner of conducting and conclusion of disciplinary cases under Rule 6.2 thereof, would have to be interpreted to mean that a proper enquiry has to be conducted so as to allow the delinquent Fixed Tenure Employee to have an opportunity of rebutting the charges. Mere issuance of a charge memo would not be sufficient in itself to throw the onus upon such a charged employee. All the more so, when such an employee is liable to be mulcted with repayment of large sums of money. It is also to be noted that the appellant/fourth respondent relied upon the findings of a Three Member Committee which is stated to have submitted a preliminary report but the Members thereof were not even permitted to be cross-examined by the first respondent/writ petitioner. This fact, in itself, is sufficient to vitiate the enquiry held against him. We therefore find no error in the direction of the learned Judge that a proper enquiry should be conducted in the instant case.

However, given the fact that the charges against the first respondent/writ petitioner are grave in nature involving financial irregularities, we are of the opinion that he would not be entitled to be reinstated in service pending a fresh enquiry in terms of the order under appeal. He would necessarily have to await the result of a properly constituted enquiry and cannot claim reinstatement as a matter of right, merely because the earlier exercise was not up to the standard.

The writ appeal is accordingly disposed of modifying the order under appeal only to the extent of setting aside the direction to reinstate the first respondent/writ petitioner in service by renewing his contract and also the direction to pay him salary from 07.09.2015 till a final order is passed. The outcome of the enquiry would decide as to whether the first

respondent/writ petitioner is entitled to renewal of his contract or payment of salary or otherwise.

However, we are of the opinion that it would not be necessary to allow four months time to the appellant/fourth respondent to complete the enquiry afresh. The appellant/fourth respondent shall endeavour to complete the enquiry in accordance with the directions of the learned Judge within two months from the date of receipt of a copy of this order. In the event the enquiry is not completed within the time frame stipulated above, the appellant/fourth respondent shall forthwith reinstate the first respondent/writ petitioner in service by renewing his contract.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR, J

M. GANGA RAO, J

Date: 06.04.2018
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