

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.11385 OF 2018

ORDER :

This Writ Petition is filed challenging the proceedings No.SCA/Estt/750/2016, dated 28.02.2018 issued by the 2nd respondent, wherein and whereby the petitioner was removed from service.

It is the case of the petitioner that initially he was appointed as Assistant Seed Certification Officer on 15.04.1985 at Tanuku and subsequently he was promoted as Senior Seed Certification Officer on 29.09.2006 and posted at Gadwal as an SSCO and subsequently he was transferred at various places and finally he was transferred to Kurnool on 23.08.2017. Subsequently, on 30.08.2016, the 2nd respondent issued proceedings to the petitioner along with two others making certain allegations. On 02.12.2016, when the petitioner was working as Chief Seed Certification Officer (FAC) Guntur, he was issued Charge Memo vide No.SCA/Estt/750/2015, dated 02.12.2016 alleging two charges against him by the 2nd respondent. Petitioner submitted explanation to the said Charge Memo denying the allegations on 24.12.2016. The 2nd respondent appointed Sri G.Hemasundar, CSCO, Kurnool as Inquiry Officer and the 2nd respondent being Disciplinary Authority appointed Sri K.Raghuramaiah SSCO, Kadapa as Presenting Officer to present the case on behalf of the Disciplinary Authority. The enquiry report was concluded holding the charge as proved and the same was served on the petitioner

along with a Memo No.SCA/Estt/750/2015, dated 03.04.2017 by the Director and sought for his explanation. Though the petitioner submitted explanation on 22.04.2017, the impugned order has been passed on 28.02.2018 by imposing major penalty of removal from service under Regulation 3 (c) of APSSCA Employees Discipline Authority Appeal Regulations 2001.

Counter affidavit is filed by the 2nd respondent denying the averments in the affidavit filed in support of the Writ Petition stating that there is no violation of either constitutional or statutory provisions, as such, the same is not maintainable. That while the petitioner was working as Senior Seed Certification Officer, he involved in irregularities in seed certification process in Kurnool division of APSSCA during Kharif 2012 season. On the directions of the Disciplinary Authority and Appointing Authority i.e., the Director APSSCA, preliminary inquiry was conducted by the Chief Seed Certification Officer, Kurnool and submitted report holding that there is prima facie case against the petitioner and two other officers of APSSCA, as such, the articles of charges framed against the petitioner was proved and asked him to submit explanation. On submission of explanation, the impugned proceedings were issued.

Heard learned counsel for the petitioner and Sri P.Durga Prasad, learned Standing Counsel for the 2nd respondent.

Learned counsel for the petitioner submits that the impugned order is passed at the instance of appellant authority-Chairman. He submits that on earlier occasions, petitioner filed W.P.Nos.30760 of 2017 and 3030 of 2018 and got relief. He

submits that without any application of mind and only basing on the directions of the appellate authority, the impugned order of removal has been passed by the 2nd respondent, though the charges against the petitioner are not that serious. He also submits that the impugned proceedings are issued without following the procedure envisaged under law.

On the other hand, Sri P.Durga Prasad, learned Standing Counsel for the 2nd respondent basing on the counter averments submits that the petitioner already filed appeal before the appellate authority and the same may be treated as an appeal before the Board of Directors. He also submits that since there are serious allegations against the petitioner, the impugned order has been passed after conducting detailed enquiry as per the procedure.

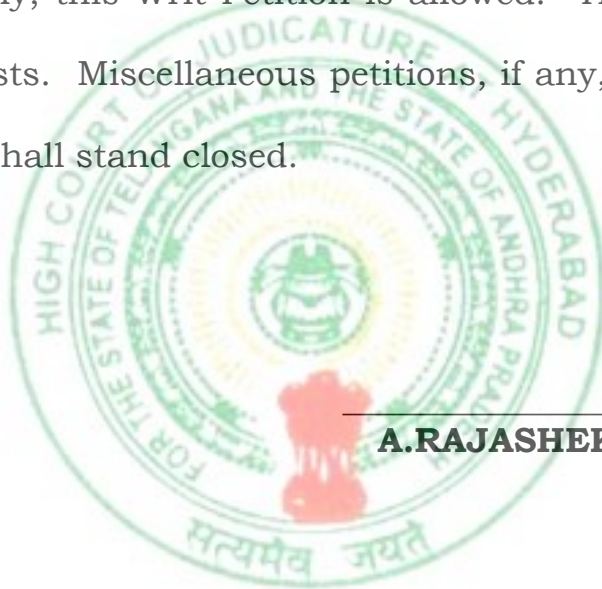
A perusal of the impugned proceedings dated 28.02.2018 of the 2nd respondent goes to show that the impugned punishment is imposed on the petitioner on directions of the Chairman, APSSCA & Special Chief Secretary to Government.

It is to be seen that the Disciplinary Authority has to independently apply his mind and take a decision and that the Appellate Authority cannot direct the Disciplinary Authority to impose such punishment. The impugned order passed by the 2nd respondent is only on the directions of the Chairman of the respondent organisation, without any application of mind and without considering the orders passed by this Court in the Writ Petitions filed by the petitioner on earlier occasions as stated supra.

In view of above facts and circumstances, the impugned proceedings of the 2nd respondent No.SCA/Estt/750/2016, dated 28.02.2018 is set aside. However, it is open for the Disciplinary Authority to take a decision, without being influenced by orders passed by the Appellate Authority for imposition of punishment. Till passing of orders by the Disciplinary Authority, petitioner shall be reinstated into services. However, the reinstatement will be subject to further orders to be passed by the Disciplinary Authority.

Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

24.04.2018
kvs



A.RAJASHEKER REDDY, J

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