

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

WRIT PETITION NO.14391 OF 2018

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

The State of Andhra Pradesh and its Divisional Forest Officer, Wildlife Division, Nandyal, Kurnool District, filed this writ petition aggrieved by the order dated 21.11.2017 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter* 'the Tribunal'), allowing O.A.No.1365 of 2016. The said O.A. was filed by the respondent herein, a Forest Beat Officer of Bachepalli Beat, Alamur Section, Nandyal Division, Kurnool District, assailing the proceedings dated 30.03.2016 and 31.03.2016 of the Divisional Forest Officer, Wildlife Division, Nandyal, Kurnool District, whereby she was reverted from the post of Forest Beat Officer to the post of Assistant Beat Officer, treating the period of her suspension from service as 'not on duty'.

Heard the learned Government Pleader for Services, Andhra Pradesh, and Sri G.Venkata Krishnaiah, learned counsel on caveat for the respondent.

The respondent was appointed as an Assistant Beat Officer on 12.02.2008 and was promoted as a Forest Beat Officer on 31.03.2012. She was posted to Prema Beat and took charge on 08.04.2012 from her predecessor, Vijaya Lakshmi. Several animal skins of the forest department under the charge of various forest officials were stored in the Environmental Education Centre (EEC), a building belonging to the forest department at Mahanandi. Amongst the articles stored in the said building were a 19 year old tiger skin and ten tiger claws. At the time she took charge as the Forest Beat Officer at Prema Beat, the respondent verified that the aforesaid ten claws were intact. The EEC building however was in the charge of L.Thyagaraju, the Deputy Range Officer, Ernapadu Forest Section. Two years

after the respondent took charge at Prema Beat, the Forest Range Officer, Nandyal, verified the articles kept in the EEC building on 28.07.2014 and it came to light that six tiger claws were missing. An article of charge was framed against the respondent under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, to the effect that she had grossly neglected her legitimate duties resulting in the missing of the six tiger claws from her custody, *vide* proceedings dated 05.11.2014. Dissatisfied with her explanation, an enquiry was ordered into the matter and the Sub-Divisional Forest Officer, Rudravaram, was appointed as the enquiry officer. Enquiry report dated 24.02.2016 was submitted by the enquiry officer holding that the charge framed against the respondent was duly proved. Thereupon, after following the due procedure, the Divisional Forest Officer, Wildlife Division, Nandyal, issued proceedings dated 30.03.2016 imposing upon the respondent the punishment of reduction to the post of Assistant Beat Officer from the post of Forest Beat Officer that she was holding. The suspension period was directed to be treated as 'not on duty'. He then issued consequential proceedings dated 31.03.2016 giving effect to the punishment. Aggrieved thereby, she approached the Tribunal.

The Tribunal framed two points for consideration:

- (1) Whether the applicant is responsible for loss of tiger claws?
- (2) Whether the punishment imposed on the applicant is legal and tenable?

On the first point, the Tribunal concluded that the respondent could not be held responsible for loss of the tiger nails. On the second point, the Tribunal opined that a reversion could not be effected without specifying the time frame and held the punishment imposed upon the respondent liable to be set aside on both counts. It is on this basis that the Tribunal allowed the O.A.

Learned Government Pleader for Services would contend that once the Tribunal came to the conclusion that imposition of the punishment of reversion without indicating the time frame was illegal, the Tribunal ought to have set aside the punishment and remanded the matter to the Disciplinary Authority for imposition of punishment afresh. She would contend that the Tribunal ought not to have let off the respondent scot-free. As regards the finding on the first point, learned Government Pleader would submit that the enquiry officer had returned the finding that the respondent was guilty of the charge and once the Tribunal held that there were no procedural irregularities in the holding of the enquiry, the finding therein ought not to have been reversed.

On the other hand, Sri G.Venkata Krishnaiah, learned counsel, would contend that when the enquiry officer failed to take note of the evidence in the right perspective, the finding of the said enquiry officer was unsustainable and the Tribunal was justified in reversing the said finding.

It is well settled that the findings in an enquiry, if they are found to be without basis or contrary to the record, can be set aside in exercise of judicial review. (See *STATE OF ORISSA V/s. BIDYABHUSHAN MOHAPATRA*¹, *STATE OF A.P. V/s. SREE RAMA RAO*², *STATE OF MADRAS V/s. G.SUNDARAM*³, *STATE OF A.P. V/s. C.VENKATA RAO*⁴, *B.C.CHATURVEDI V/s. UNION OF INDIA*⁵, *APPAREL EXPORT PROMOTION COUNCIL V/s. A.K.CHOPRA*⁶ and *UNION OF INDIA V/s. G.GANAYUTHAM*⁷). The Tribunal was therefore justified in examining the findings of the enquiry officer in the light of the claim of the respondent that

1 AIR 1963 SC 779
 2 AIR 1963 SC 1723
 3 AIR 1965 SC 1103
 4 AIR 1975 SC 2151
 5 (1995) 6 SCC 749
 6 (1999) 1 SCC 759
 7 (1997) 7 SCC 463

there was miscarriage of justice owing to the enquiry officer not drawing the right conclusions from the evidence.

The following points emerge from perusal of the enquiry report and the statements made by the witnesses examined during such enquiry: The tiger skin and claws were admittedly not kept under lock and key in the EEC building. L.Thyagaraju, the Deputy Forest Range Officer, admitted that the keys of the EEC building were either with Papayamma, Sekhar, Sudhakar or Krishna Murthy, the watchman. To a specific question thereafter, L.Thyagaraju said that the keys were with Krishna Murthy, the watchman, and that on 28.07.2014, Krishna Murthy, the watchman, brought three skin bags from outside the EEC building and not one skin bag. When asked whether he had told Krishna Murthy to keep the skin bags outside the EEC building to dry, L.Thyagaraju said that during meetings, the Divisional Forest Officer told Krishna Murthy to keep the skin bags in his house so as to avoid the smell and after completion of the meetings, the skin bags were to be kept back in the EEC building. Krishna Murthy, the watchman, said that the skin bags were kept on the racks in the EEC building and during the meetings, the skin bags were kept outside and after completion of the meetings they were kept inside as per the instructions of the Deputy Forest Range Officer. He further stated that on 28.07.2014, he brought two skin bags from the EEC building and three skin bags from his house, which was besides the EEC building. He again stated that out of the five skin bags, three from the EEC building were kept in his house which was next to the EEC building and after shifting the three skin bags, he heard that the meeting was cancelled so the two skin bags were left in the EEC building. Despite the incriminating statement made by L.Thyagaraju, the Deputy Forest Range Officer, no steps were taken to examine the Divisional Forest

Officer who was stated to have directed the skin bags to be kept outside during the meetings so that he need not suffer the smell.

The aforestated evidence clearly shows that there was no proper security provided for the claws and no procedure was put in place to hold any one accountable for the same. The claws along with the tiger skin were kept in a building accessible to all and which was not even within the control of the respondent. Further, the Divisional Forest Officer who held meetings in the said building seems to have been averse to the smell that emanated from the skin bags and it is an admitted fact that during such meetings, he directed the watchman, Krishna Murthy, to keep the bags outside the building and to bring them back after the meetings. It is also brought out that Krishna Murthy, the watchman, used to keep the skin bags in his own house. In such circumstances, when no proper steps were taken to affix any responsibility for the safe custody of the tiger skin and the claws, it is not open to the authorities to baldly pin the blame upon the respondent, merely because she took custody of the tiger skin and the claws on 08.04.2012 when she was assigned to Prema Beat. It is therefore clear that she was made the scapegoat for the lack of security and the haphazard manner in which the tiger skin and the claws were handled at the behest of the Divisional Forest Officer himself. The finding of the Tribunal that the respondent could not be held responsible for the loss of the tiger claws therefore warrants no interference.

In the light of this finding, it is unnecessary for this Court to examine the correctness of the finding of the Tribunal on the second point.

The respondent was therefore not liable to be punished as the charge framed against her did not hold water, despite the finding to the contrary

returned by the enquiry officer which was acted upon by the Disciplinary Authority.

The order under challenge does not brook interference on any count.

The writ petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M.GANGA RAO, J

5th OCTOBER, 2018

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