

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 33193 of 2018

Date : 18.9.2018

Between:

M Shyam Sunder S/o Late Devaiah aged about 43years Occ
Senior Assistant O/a District BC Development office
Karimnagar Rio 9981/21/C/3 Ganesh Veedhi2 Ramnagar
Karimnagar town

Petitioner

And

State of Telangana
The Prl Secretary Bc Welfare Dept Govt of Telangana
Secretariat Hyderabad & others

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner and learned Government Pleader for Social Welfare.

2. In this writ petition, petitioner is challenging the report of the Enquiry Officer and show cause notice dated 28.8.2018.

3. Based on the charge memo dated 4.4.2018, enquiry was conducted; enquiry officer submitted his report and calling for explanation on the findings recorded by the Enquiry Officer, the District Collector-3rd respondent issued show cause notice dated 28.8.2018.

4. Learned counsel for petitioner sought to contend that Enquiry Officer has not followed the procedure as required by T.S.Civil Services (Classification, Control & Appeal) Rules, 1991; charges are vague and not substantiated and therefore, further action cannot be taken based on such report. He would further contend that the Disciplinary Authority erred in indicating punishment proposed to be imposed even before explanation is called on the findings recorded by the Enquiry Officer and same would amount to pre-judging the issue.

5. The Court is not inclined to enter into nature of charges leveled, merits of allegations and procedure followed by the Enquiry Officer. Those are matter for the petitioner to urge before the Disciplinary Authority. If the Disciplinary Authority does not appreciate the contentions urged and passes an adverse order, he can avail appropriate remedy. Apparently, by the time writ petition is filed, no explanation is submitted by the petitioner.

6. However, there is merit in the contention of the learned counsel for petitioner that Disciplinary Authority could not have

indicated the punishment to be imposed even before explanation is called. According to Rule 21 of APCS (CCA) Rules, 1991 after the report of the Enquiry Officer is submitted holding the charges as proved, the Disciplinary Authority, if agrees with the findings recorded by the Enquiry Officer and intend to impose punishment shall call upon the employee to show cause as to why such findings should not be accepted. In the facts of this case, when explanation was called on the findings of the Enquiry Officer adverse to the delinquent employee, the Disciplinary Authority ought not to have indicated the punishment proposed to be imposed and it would amount to pre-judging the issue even before explanation is filed. Thus, to that extent, show cause notice is not valid in law.

7. Having regard to the above findings, the writ petition is disposed of granting liberty to the petitioner to submit his explanation on the findings recorded by the Enquiry Officer including the procedural deficiencies, if any, in conducting the enquiry by the Enquiry Officer within two weeks from today. The Disciplinary Authority shall consider the explanation offered by the petitioner uninfluenced by the opinion expressed by him in the show cause notice dated 28.8.2018 on the quantum of punishment to be imposed; also consider the objections on procedural aspects of conducting disciplinary proceedings; on the merits of the findings recorded by the Enquiry Officer; and take appropriate decision as warranted by law, expeditiously.

8. Accordingly, the writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 18-09-2018
TVK

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