

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

WRIT APPEAL No.1318 OF 2018

JUDGMENT: *(Per Hon'ble Sri Justice M.Ganga Rao)*

The appellants-Telangana State Seeds Development Corporation Limited, Hyderabad (hereinafter referred to as 'Corporation'), represented by its Managing Director and another, respondents in Writ Petition No.26120 of 2006, filed this appeal against the order dated 06.07.2017 passed in the said Writ Petition whereby the impugned punishment order dated 11.11.2005 passed by the 1st appellant as confirmed by the order dated 07.11.2006 of the 2nd appellant, were set aside holding that they were passed contrary to Rule 9 of the Disciplinary and Appeal Rules for the Employees of APSSDC, 1976 (for short 'the Rules, 1976') and in violation of principles of natural justice.

2. The brief facts of the case are that when the 1st respondent was working as Assistant Manager (Marketing) in the Head Office of the Corporation, a charge memo dated 29.07.2000 was issued to him alleging that while he was working as Assistant Manager, Ananthapur Branch, during the year 1999 exhibited slackness in supervision of the purchase of groundnut seeds, as a result, the Seed Officer, In-charge of Tadipatri Procurement Centre, purchased groundnut seeds without proper cleaning due to which

88,680 Kgs. waste material worth Rs.13,78,780/- was procured, thereby attempted to cause wrongful loss of Rs.13,78,780/- to the farmers and corresponding wrongful gain to the suppliers and thereby violated Rule 4(ii) of the Rules, 1976. Further, he failed to maintain absolute integrity and devotion to duty in violation of Rule 3 of the Rules, 1976. The Disciplinary Authority, being not satisfied with the explanation dated 16.08.2000 submitted to the charge memo dated 29.07.2000, appointed an Enquiry Officer on 16.04.2002 and Presenting Officer on 27.04.2002. The Enquiry Officer conducted enquiry and submitted enquiry report to the Disciplinary Authority - 1st appellant on 27.02.2004 holding that the charges framed against the first respondent vide proceedings dated 29.07.2000 were not proved. The Disciplinary Authority, having differed with the Enquiry Officer's report, referred the matter to the Government. The Government, on the advice of the Vigilance Commission, ordered the Disciplinary Authority to issue show-cause note to the 1st respondent and take action. Accordingly, a show-cause notice dated 12.08.2005 was issued to the first respondent calling for his explanation, to which, he submitted a detailed explanation on 05.09.2005. Thereafter, the 1st appellant passed the impugned proceedings dated 11.11.2005 imposing the penalty of stoppage of two annual increments with cumulative effect from 01.07.2006 and 01.07.2007. As against the same, the

1st respondent preferred an appeal before the 2nd appellant on 24.02.2006 under Rule 16(1)(a) of the Rules, 1976. The Appellate Authority passed orders on 07.11.2006 confirming the order of punishment dated 11.11.2005 of the 1st appellant. Being aggrieved by the same, the 1st respondent filed Writ Petition No.26120 of 2006 before this Court. The said writ petition was allowed by the learned single Judge of this Court on 06.07.2017 holding that the 1st appellant/Disciplinary Authority as well as the 2nd appellant/Appellate Authority had not given any reasons for imposing/confirming the punishment as required under Rules 7 and 9 of the Rules, 1976. Challenging the same, the Corporation and its authorities are before this Court in this Writ Appeal.

3. Smt. Pasham Sujatha, learned counsel appearing for the appellants, would contend that the Disciplinary Authority as well as the Appellate Authority passed the impugned orders considering the evidence on record and by giving sufficient reasons as required under Rules 7 and 9 of the Rules, 1976. Hence, it cannot be said that there was violation of principles of natural justice. The learned Single Judge grossly erred in allowing the writ petition by setting aside the impugned proceedings placing reliance on the judgment of the Hon'ble Supreme Court in **Punjab National**

Bank and others Vs. Kunj Behari Misra¹ holding that the Disciplinary Authority as well as the Appellate Authority failed to give reasons for passing the impugned order, whereas the orders passed by the Disciplinary Authority as well as the Appellate Authority speak for themselves and reasons were given. Hence, the order passed by the learned Single Judge is liable to be set aside and thus prayed to allow the writ appeal.

4. Per contra, Sri K.Sita Ram, learned counsel appearing for the 1st respondent, would contend that the 1st respondent was suspended on 03.06.1999 pending enquiry. The Disciplinary Authority appointed Sri Y.Ramakota Reddy, Manager (Finance) of the Corporation, as an Enquiry Officer. The Enquiry Officer submitted his report on 17.06.1999 holding that the quality of groundnut seeds procured were as per seed standards and guidelines issued by the Head Office and the charges were not proved. The Disciplinary Authority accepted the enquiry report and passed proceedings dated 18.06.1999 revoking the suspension of the 1st respondent and reinstating him in duty with a warning. However, for the reasons best known to it, the 1st appellant – Disciplinary Authority one year thereafter again issued another charge memo dated 29.07.2000 alleging the same charges. The Enquiry Officer submitted his report to the Disciplinary Authority holding that the charges were not proved whereas

¹ (1998) 7 SCC 84

the Disciplinary Authority instead of considering the evidence on record independently, referred the matter to the Government, an extraneous authority, contrary to Rule 9 of the Rules, 1976. The Government, on the advice of the Vigilance Commission, ordered the Disciplinary Authority to issue show-cause notice and take action. The Disciplinary Authority, without independent application of mind, being carried away by the Government orders, issued show-cause notice dated 12.08.2005 to the 1st respondent. The Disciplinary Authority without considering his explanation to the show cause notice in its proper perspective, passed the impugned order dated 11.11.2005 imposing penalty of stoppage of two annual increments with cumulative effect from 01.07.2006 and 01.07.2007. The 1st respondent preferred appeal to the Board of Directors of the 1st appellant under Rule 16(d) of the Rules, 1976. But, the Appellate Authority, without considering the appeal grounds in proper perspective and without giving any reasons, by order dated 07.11.2006, confirmed the punishment order of the Disciplinary Authority dated 11.11.2005. The Appellate Authority passed a laconic order without giving any reasons as required under Rules 7 and 9 of the Rules, 1976 and contrary to the law laid down by this Court and the Hon'ble Supreme Court.

5. We have heard the contentions of the learned counsel for the parties.

6. In the facts and circumstances of the case, we find that the Disciplinary Authority issued the show cause notice dated 12.08.2005 to the 1st respondent without applying its mind independently to the evidence available on record, disagreeing with the Enquiry Officer's report mainly based on the Government order given on the advice of the Vigilance Commission, an extraneous authority, who has nothing to do under the Rules. The Disciplinary Authority, without considering the explanation of the 1st respondent submitted to the show-cause notice, passed the punishment order dated 11.11.2008. As per Rule 9 of the Rules 1976, the Disciplinary Authority shall consider the Enquiry Report, record its conclusions on each charge and pass appropriate orders. The learned single Judge while allowing the writ petition placed reliance on the decision of the Hon'ble Supreme Court in ***Punjab National Bank (supra)*** wherein it is held that:

“The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7 (2). As a result thereof, whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer

containing its findings will have to be conveyed and delinquent officer will have an opportunity and persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer. The principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before a disciplinary authority records its findings on the charges framed against the officer.”

Based on the above observations of the Hon’ble Supreme Court, the learned single Judge rightly concluded that in the case on hand the authorities have adopted the procedure contrary to the law laid down in **Punjab National Bank (supra)**. Further, the Appellate Authority - Board of Directors without any reference to resolution of the Board and merely based on the decision of the Chairman of the Board, rejected the appeal confirming the orders of the Disciplinary Authority that too without passing a reasoned order as required under Rules 7 and 9 of the Rules, 1976.

7. The statutory Appellate Authority has not applied its mind and merely confirmed the order of the Disciplinary Authority. The impugned order of the Appellate Authority is not a reasoned order. The Appellate Authority, being a quasi-judicial authority, has to give good and sufficient reasons for rejecting the appeal, then only it gives satisfaction to the party against whom the order is made. It also minimises the possibility of arbitrariness on the part of the Appellate Authority and would enable the High Court or the Supreme

Court to exercise the power of judicial review effectively, otherwise they would be placed under a great disadvantageous position if no reasons are given for dismissing the appeal. As the orders of the Appellate Authority as well as the Disciplinary authority are bereft of any good and sufficient reasons, they are liable to be set aside. Therefore, we find no reasons warranting our interference with the well considered order dated 06.07.2017 passed by the learned Single Judge in Writ Petition No.26120 of 2006.

8. Accordingly, the Writ Appeal is dismissed. Pending miscellaneous petitions, if any, shall stand dismissed. No order as to costs.



SANJAY KUMAR, J

M.GANGA RAO, J

Date : 14.12.2018
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