

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

WRIT APPEAL Nos. 1294, 1308, 1315 & 1316 OF 2018

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

The Telangana State Seeds Development Corporation Limited, Hyderabad, represented by its Managing Director, the respondent in the writ petitions, filed these appeals against the common order dated 26.12.2017 passed in Writ Petition Nos.7673 and 7680 of 2008 and also the common order dated 02.01.2018 passed in Writ Petition Nos.7094 and 7116 of 2009, whereby the learned Single Judge allowed the said writ petitions by setting aside the impugned proceedings dated 18.04.2007 imposing the penalty of stoppage of two increments with cumulative effect with effect from 01.01.2008 and 01.01.2009, holding the same to be contrary to Rule 11 of the Disciplinary and Appeal Rules of the Andhra Pradesh State Seed Development Corporation and against the principles of natural justice.

2. All these appeals are taken up for hearing and disposed of by this common order as the punishments imposed on the respondents are arising out of same enquiry.

3. The common questions that arise for consideration of this Court in these writ appeals are (1) Whether the action of the Disciplinary Authority imposing punishment on the

respondents by disagreeing with the enquiry report having acted in dual capacity as Enquiry Officer as well as the Disciplinary Authority is valid? and (2) Whether the learned Single Judge erred in holding that the Disciplinary Authority committed an error in disagreeing with the Enquiry Officer's report and holding that the charges are proved?

4. The appellant issued charge memos dated 16.02.2002 against the respondents, Seed Officers, while keeping them under suspension by order dated 19.01.2002 alleging that they did not ensure quality as per the prescribed standards in respect of 17 trucks of Groundnut seed, which were dispatched to Ananthapur District, which led to criticism from the farming community, peoples' representatives and print media. Thus, their acts amounted to neglect of duties under Rule 4(ii) of the Disciplinary and Appeal Rules for the Employees of APSSDC, 1976 (for short 'Rules, 1976'). The respondents submitted their explanation to the said charge memos.

5. The appellant, being the Disciplinary Authority, appointed himself as an Enquiry Officer, conducted enquiry against the respondents and submitted Enquiry Report on 31.03.2005 holding that the charges were not proved. But, the Disciplinary authority issued disagreement memos on 22.09.2005, forwarded the representations of the respondents dated 04.10.2005 to the Government by letter dated

19.01.2005 and 07.03.2006 stating that the charges were framed against the respondents and others based on the Vigilance report dated 09.01.2002. The Government, vide letter dated 03.11.2006, advised the Disciplinary Authority to initiate action against the respondents. Accordingly, the Disciplinary Authority passed the orders dated 18.04.2007 imposing penalty of deferment of two annual increments with cumulative effect with effect from 01.01.2008 and 01.01.2009.

6. The Disciplinary Authority acting in dual capacity as Disciplinary Authority as well as Enquiry Officer could not be allowed to take different stands. When once, as an Enquiry Officer, he submitted Enquiry Report holding that the charges were not proved, while acting as the Disciplinary Authority he cannot disagree with the very same findings rendered by him in the capacity of Enquiry Officer. The decision of the Disciplinary Authority disagreeing with the Enquiry Officer's report is based on the advice of the extraneous authority-the Government. In turn, the orders of the Government were based on the advice of the Vigilance Commission.

7. The action of the Disciplinary Authority in imposing punishment of deferment of two annual increments with cumulative effect on the respondents is therefore found to be illegal, arbitrary and contrary to Rule 9 of Rules, 1976. The Disciplinary Authority cannot take contrary views, one as

Enquiry Officer that the charges are not proved and another as Disciplinary Authority disagreeing with the findings of the Enquiry Officer. He has not taken any independent decision based on the evidence available on record, but his decision in imposing the punishment is merely based on the orders of the Government issued on the advice of the Vigilance Commission. Therefore, the said orders are arbitrary, violative of principles of natural justice and contrary to Rules, 1976. Therefore, the learned Single Judge rightly set aside the proceedings dated 18.04.2007.

8. For the reasons stated supra, the learned single Judge had not committed any error of fact and law in allowing the writ petitions.

9. The Writ Appeals are accordingly 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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