

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.39057 of 2018

ORDER :

Heard the counsel for petitioner, and the learned Government Pleader for Panchayat Raj for respondent nos.1 and 4; and Sri M.S.R. Chandra Murthy, counsel for respondent nos.2 and 3.

2. The petitioner was appointed as a Field Assistant in Kalingapatnam Grama Panchayat, Gara Mandal, Srikakulam District under Mahatma Gandhi National Rural Employment Guarantee Scheme (M.G.N.R.E.G.S.) in 2008.

3. The petitioner was issued a suspension-cum-show-cause notice on 05.03.2015 leveling certain allegations against him by the 3rd respondent.

4. The petitioner gave an explanation to the same on 12.03.2015 denying the allegations leveled against him.

5. Thereafter, the 3rd respondent passed order on 27.03.2015 simply extracting petitioner's explanation to the charge-memo; and without giving any reasons why the explanation of the petitioner was not accepted by him, he recorded findings straightaway.

6. The need to give reasons has been emphasized by the Supreme Court in **S.N. Mukerjee v. Union of India**¹.

¹ AIR 1990 SC 1984

7. When petitioner preferred an appeal against the said order dt.27.03.2015, the said appeal has been rejected by 2nd respondent without considering even a single ground of appeal, and without giving any reasons why the contentions of petitioner in the appeal are liable for rejection.

8. In my opinion, both the 3rd respondent as well as the 2nd respondent seem to be totally ignorant of the process of adjudication and the need to adhere to principles of natural justice by giving reasons for their respective conclusions.

9. Though an elaborate counter-affidavit has been filed by respondents justifying the decisions taken by them against petitioner. It is settled principle of Law as held in that an Administrative Order must be judged from its contents and cannot be sustained on grounds which are not contained in it by taking additional pleas in counter-affidavits or oral submissions. [See **Mohinder Singh Gill v. Chief Election Commissioner**²]

10. In this view of the matter, the Writ Petition is allowed. The order dt.30.07.2018 passed by the 2nd respondent and the order dt.27.03.2015 passed by the 3rd respondent, are both set aside.

11. The matter is remitted back to the 3rd respondent to give reasons why petitioner's explanation shall not be accepted and to pass a

² 1978 (1) SCC 405

reasoned order within three (03) months from the date of receipt of copy of the order.

12. Till such order is passed, the petitioner is entitled to wages as a Field Assistant from 05.03.2015. No order as to costs.

13. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04.12.2018

Ndr/*

