

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT APPEAL NO.155 of 2019

01.07.2019

Between:

Telangana State Northern Power Distribution

Company Limited and others

...Appellants

and

K. Mohan

...Respondent

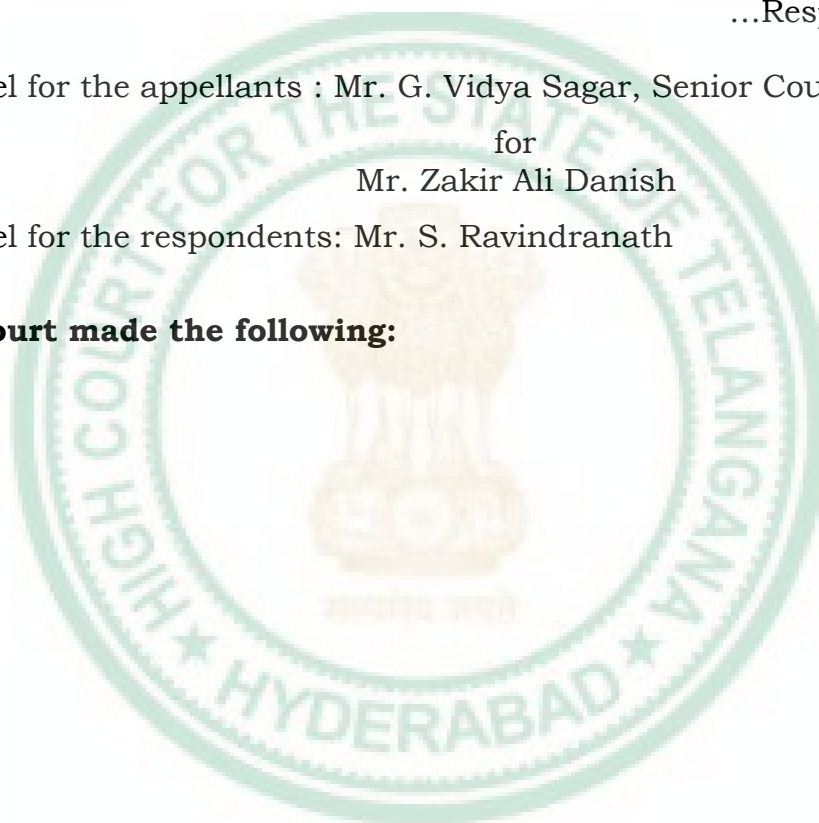
Counsel for the appellants : Mr. G. Vidya Sagar, Senior Counsel

for

Mr. Zakir Ali Danish

Counsel for the respondents: Mr. S. Ravindranath

The Court made the following:



JUDGMENT: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

The appellants have challenged the legality of the order dated 24.09.2018, passed by a learned Single Judge in W.P.No.27179 of 2011, whereby the learned Single Judge had quashed and set aside the order dated 02.09.2010, passed by the appellants against the respondent-petitioner, Mr. K. Mohan, for recovery of an amount of Rs.9,95,487/- along with interest at the rate of 24% per annum.

Briefly, the facts of the case are that on 19.02.1970 the respondent-petitioner was appointed on the post of Bill Collector in the erstwhile Andhra Pradesh State Electricity Board. During 1979, the post of Bill Collector was converted to the post of Lower Division Clerk. Therefore, he continued to work as a Lower Division Clerk. In 1991, he was promoted to the post of Upper Division Clerk. He was posted at General Revenue Circle, Warangal. Thereafter, in 2001 he was promoted to the post of Junior Accounts Officer (JAO). While he was discharging his duties as a JAO, on 28.07.2005, the respondent-petitioner was suspended. Subsequently, he was issued a charge-sheet and the departmental enquiry was duly held. By order dated 28.06.2007, he was dismissed from service.

Since the respondent-petitioner was aggrieved by the order dated 28.06.2007, he had filed a departmental appeal before the appellate authority. By order dated 27.03.2010, the appellate authority had reduced the punishment from the one of dismissal to one of the compulsory retirement. Since the respondent-petitioner was punished with compulsory retirement, obviously, he was entitled to the retrial benefits. However, by an internal

correspondence dated 02.09.2010, the appellants decided to recover an amount of Rs.9,95,487/- from the terminal benefits of the respondent-petitioner. Since the respondent-petitioner was aggrieved by the said internal correspondence, he challenged the same before the learned Single Judge. As stated hereinabove, the learned Single Judge allowed the writ petition, and directed the appellants to release the amount of Rs.9,95,487/- to the respondent-petitioner within a period of eight weeks from the date of receipt of the certified copy of the order. Hence, this appeal before this Court.

A bare perusal of the impugned order clearly reveals that the learned Single Judge has noticed the fact that prior to taking the decision to recover the amount of Rs.9,95,487/-, no notice was issued to the respondent-petitioner. Therefore, this Court has also asked Mr. G. Vidya Sagar, the learned Senior Counsel, appearing on behalf of the appellants, whether any notice was issued to the respondent-petitioner before the said decision to recover the amount was taken or not? The learned Senior Counsel has frankly conceded that no such notice was ever issued to the respondent-petitioner. Moreover, neither the contemplation, nor the decision to recover the said amount was mentioned in the order dated 27.03.2010, whereby the punishment was reduced from the one of dismissal to one of compulsory retirement.

It is, indeed, trite to state that before any adverse action can be taken against an employee, the employer is duty bound to issue a notice to the employee. In the present case, although by order dated 27.03.2010, the punishment was reduced, as mentioned hereinabove, even the said order did not mention, even remotely,

that the Department contemplates the possibility of recovery of any amount. It is only six months later that there is an internal correspondence within the Department, where the recovery of the amount was directed to be made. Obviously, such a decision could not have been taken behind the back of the respondent-petitioner without giving an opportunity of hearing to him. Hence, the learned Single Judge is certainly justified in concluding that the impugned correspondence dated 02.09.2010 is in violation of principles of natural justice.

Mr. S. Ravindranath, the learned counsel for the respondent-petitioner, submits that according to the letter dated 29.09.2008, written by the Superintending Engineer to the Chief General Manager (HRD), it was clearly stated that no dues are recoverable from the respondent-petitioner, as the said amount was already recovered from the respective consumers. Hence, there is no cogent reason for the appellants to recover the amount mentioned above.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned order. Therefore, this writ appeal is hereby dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, CJ

DR. SHAMEEM AKTHER, J

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Date: 01.07.2019

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