

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.12008 of 2019

ORDER:

With the consent of both the parties, this Writ Petition is being disposed of at the admission stage.

2. This Writ Petition is filed seeking a Writ of Mandamus declaring the action of the 3rd respondent in issuing Notice Lr. No A3/1024/2018 dated 30/05/2019 calling explanation as to why petitioner should not be awarded punishment of dismissal from service, as illegal, arbitrary, violative of Rule 20 of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 (for brevity ('Rules, 1991')) and violative of principles of natural justice and set aside the same with consequential direction to the respondents to communicate the enquiry officer's report dated 27-04-2019 along with Lr. No G/656/2017 dated 30-06-2018 issued by the Revenue Divisional Officer, Medak, by following Rule 20 of the Rules, 1991.

3. Heard Sri K.R. Srinivas, learned counsel for the petitioner and the learned Government Pleader for Services-I appearing for respondents.

4. Petitioner contends that she is working as Village Revenue Officer, Podchanpally Revenue Cluster of Papannapet Mandal, Medak District and while she was discharging her duties,

the respondents have issued Article of Charges alleging that she had indulged in major irregularities in LRUP Programme. She further contends that she has submitted an explanation denying the said charges. Thereafter, the disciplinary authority, not satisfying the same, conducted a detailed enquiry by appointing enquiry officer. The Enquiry Officer has submitted the report to the disciplinary authority on 27-04-2019 holding that the charges were proved. Later the disciplinary authority, without furnishing enquiry report, issued the impugned notice to her calling explanation as to why she should not be dismissed from service.

5. Learned counsel for the petitioner submits that the action of disciplinary authority in issuing notice and calling for explanation as to why the petitioner should not be dismissed from service is bad in law as the disciplinary authority has already come to the conclusion and indicated the punishment in the notice that the petitioner is liable to be dismissed from service, and later, asking the petitioner to submit explanation itself shows the predetermined mind of the disciplinary authority and the purpose of issuing notice itself shows empty formality. He further submits that the disciplinary authority has not even communicated enquiry report to the petitioner. In terms of the law laid down by the Supreme Court in **UOI Vs. Mohd. Ramzan Khan**¹ and **The Managing Director, ECIL Vs. B.Karunakar**², the disciplinary authority must furnish enquiry

¹ AIR 1991 S.C. 471

² (1993) 4 SCC 727

report and give an opportunity to the charged employee to furnish his objections to the enquiry officer. He further contends that without furnishing enquiry report, the disciplinary authority, straight away, came to the conclusion to dismiss the petitioner which is also contrary to Rule 20 of the Rules, 1991. Therefore, the impugned show cause notice is liable to be set aside.

6. Learned Government Pleader for Services-I submits that the respondents would follow Rule 20 of the Rules, 1991, and petitioner would be furnished enquiry report and only thereafter, appropriate action would be taken against the petitioner by the respondents in accordance with Rules.

7. Having regard to the rival submissions made by the parties, this Court is of the considered view that the disciplinary authority has issued the impugned notice dated 30-05-2019 without furnishing any enquiry report and pre-judging the issue to impose the punishment of dismissal. Therefore, the impugned notice dated 30-05-2019 is liable to be set aside and is accordingly set aside. However, the respondents are directed to proceed with the disciplinary action against the petitioner after furnishing enquiry report and pass appropriate orders in accordance with law.

8. With these observations, the Writ Petition is disposed of. No costs.

9. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 18-06-2019
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