

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.18527 OF 2019

Date: 27.08.2019

Between:

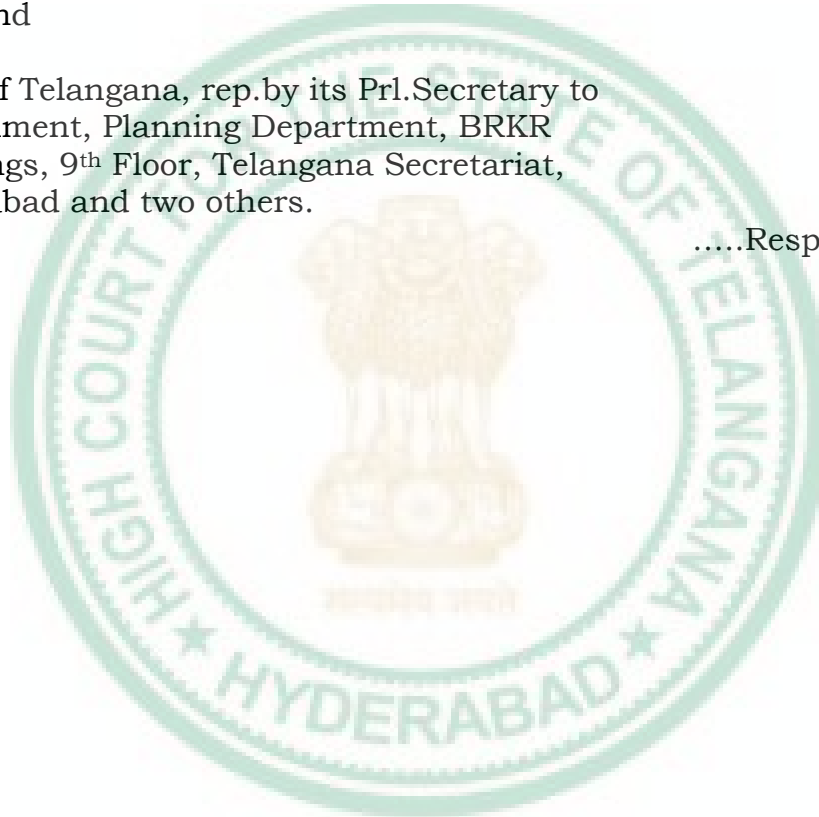
G.Rajendera Kumar, s/o. Janardhan Murthy,
Aged about 57 years, Statistical Officer (AEO),
Office of the Chief Executive Officer, TSDPS,
Gannaka Bhavan, Khairatabad, Hyderabad,
R/o. H.no.1-5-67 & 68, Flat No.105,
Markaz Apartments, Musheerabad, Hyderabad.

.....Petitioner

and

State of Telangana, rep.by its Prl.Secretary to
Government, Planning Department, BRKR
Buildings, 9th Floor, Telangana Secretariat,
Hyderabad and two others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.18527 OF 2019

ORDER:

Charge Memo dated 31.07.2019 was served on the petitioner. It contains two articles of charges, imputation of charges and list of documents. After receiving the charge memo, petitioner submitted representation on 13.08.2019 requesting to furnish the documents mentioned in his representation. In other words, petitioner confined the request to supply the documents mentioned in the representation, but not all documents shown. He has also sought the documents claimed to have been mentioned in Annexure-II i.e., as part of imputation. On 16.08.2019 memo was served on the petitioner showing the list of documents supplied and refusing to supply the other documents requested by him. Petitioner has made another representation on 19.08.2019 informing the disciplinary authority that the documents requested are not supplied to him. On 22.08.2019 the Inquiring Officer was appointed to inquire into the charge memo. At this stage, this Writ Petition is filed.

2. By placing reliance on Rule 20 (4) of Telangana Civil Services (Classification, Control and Appeal) Rules, 1991 (Rules, 1991), learned counsel for petitioner submits that all the documents are required to be furnished to him including the documents mentioned in the imputation and the request made by petitioner is erroneously rejected. He would further submit that even without waiting for explanation to be offered by the petitioner to the charges leveled against him, straightaway Inquiring Officer was appointed.

3. *Per contra*, according to the learned Government Pleader, the copies of documents which are shown in the list of documents are furnished and if petitioner requires any other document in support of his defense, he can as well request the Inquiring Officer to order for production of documents, and can apply independently for supply of documents. There is full compliance of sub-rule 4 of Rule 20 of the Rules, and petitioner is dodging to submit his explanation. By placing reliance of sub-rule 5 (e) of Rule 20, learned Government Pleader would submit that the disciplinary authority may for reasons to be recorded in writing refuse to supply such of the documents as are in its opinion not relevant to the case. Therefore, by relying upon the said provision, vide the Memo dated 16.08.2019, request to supply other documents is rejected.

4. Rule 20(4) of the Rules, 1991, requires the framing of charges, the statement of imputations of misconduct and misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and copies of the said documents and statements of the witnesses if any recorded shall be supplied to delinquent employee, calling upon the delinquent to submit written statement of his defense. The documents requested by the petitioner with reference to the documents shown in the list of documents are furnished. His only grievance is confined to two aspects, firstly not furnishing the covering letter addressed by the Public Service Commission along with the selection list communicated by the PSC, and the seniority list published earlier also, which would disclose the date of birth notified in the said list,

but they are not supplied and, therefore, the same amounts to violation of provisions in Rule 20(4) of the Rules, 1991.

5. It is to be noted that disciplinary authority has to furnish all documents on which reliance is placed to sustain the charge. It is always open to delinquent employee to request for documents which may support his defense. However, he has to explain its relevance to the charges leveled against him, during the course of enquiry, if any inquiry is conducted. He may have a grievance only if documents requisitioned by him are not supplied to him. Whether the rejection of request to supply other documents is valid and whether petitioner is deprived of reasonable opportunity to defend effectively are matters, which can be gone into only after the domestic enquiry is concluded holding the petitioner guilty of the charge/charges and if any punishment is imposed, in exercise of power of judicial review.

6. Having regard to the detailed procedure envisaged in Rule 20 of Rules, 1991, as of now the defense of petitioner cannot be said as affected. It is not the case of petitioner that listed documents are not supplied. He was requesting to supply documents, such as covering letter to the documents listed in Annexure-III. Thus, petitioner erred in not submitting the written statement of his defense. In the written statement, petitioner can also raise objections.

7. Be that as it may, the disciplinary authority also erred in straightaway appointing the Inquiring Officer without waiting for the explanation by the petitioner for his defense. Memo dated

16.08.2019 was issued rejecting the supply of some more documents, and within four days, Inquiring Officer was appointed.

8. Having regard to the same, Writ Petition is disposed of granting liberty to the petitioner to file written statement of his defense in response to the charge memo dated 31.07.2019 within two weeks from the date of receipt of copy of this order. If petitioner files written statement of his defense, the same shall be considered objectively and take further course of action as warranted by law. Till a decision is made on due consideration of written statement of defense, if any filed, within the time granted, the appointment of Inquiring Officer shall be deferred. It is open to disciplinary authority to proceed further if the defense statement is not found satisfactory and that allegations against petitioner have to be enquired. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 27.08.2019
kkm

HON'BLE SRI JUSTICE P.NAVEEN RAO



WRIT PETITION NO.18527 OF 2019

Date: 27.08.2019

kkm