

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.18636 OF 2019

Date: 28.08.2019

Between:

H.R.Aradhana Devi, w/o. K.M.Prem Kumar,
Aged about 50 years, O/o Director Insurance
Medical Services, 6-4-6/8, Opp:Gandhi Hospital,
Kavadiguda,Musheerabad, Hyderabad.

.....Petitioner

and

The State of Telangana, rep.by its Prl.Secretary,
Department of Labour, Employment, Training &
Factories, Telangana Secretariat, Hyderabad
and others.

.....Respondents



The Court made the following:

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ORDER:

Petitioner is working as Pharmacist Grade-II in the Office of Directorate for Insurance Medical Services. Disciplinary proceedings were initiated against the petitioner vide G.O.Rt.No.152 Labour Employment Training & Factories (Emp-Vig) Department, dated 09.04.2019. These disciplinary proceedings are initiated based on the report of the Director General (Vigilance & Enforcement), who has conducted vigilance enquiry pointing out several glaring irregularities in procuring medicines. *Prima facie*, report of the vigilance points out the delinquency of petitioner also.

2. Learned counsel for petitioner sought to contend that from the reading of charge memo, no serious delinquency is alleged against the petitioner, charge is vague and that petitioner is no way concerned with the procurement of medicines as she is only a Pharmacist Grade-II. He further points out that entire episode has happened after the assumption of duties by the 3rd respondent as Director, and by bringing 5th respondent as head of dispensary and petitioner is no way concerned. He, therefore, contends that initiation of disciplinary proceedings would amount to illegal exercise of power. It causes hardship and suffering though she is no way concerned.

3. Learned counsel for petitioner sought to sustain his contention that the charges are vague by emphasizing on what is alleged against him vis-à-vis his roles and responsibilities.

4. Learned counsel for petitioner sought to contend that after assumption of Office by the 3rd respondent, the Drugs Procurement Committee is not constituted and, therefore, no procedure is followed for entrustment of procurement of medicines. Petitioner was not involved in procurement and entire matter was handled by the Director and another Pharmacist.

5. Charge-1 reads as under:

“That Smt. H.R.Aradhana Devi, Pharmacist, Grade-II, O/o Director Insurance Medical Sciences, Telangana, Hyderabad has failed to recommend action on the rate contract firms for Non-supply of medicines within requisite time of six (6) weeks in connection with procurement of medicines by the Director, Insurance Medical Services for ESI hospitals and dispensaries, etc., for the year 2016-17, 2017-18, etc. No action was proposed to deduct the differential price incurred by the Department on the medicines which were not supplied by them. As a result most the drugs were purchased locally in non-transparent, unfair manner at higher rates causing huge loss to the Government Ex-chequer.

Thus, Smt. H.R. Aradhana Devi, Pharmacist, Grade-II, O/o. Director Insurance Medical Services, Telangana, Hyderabad by her abovementioned acts has committed grave irregularities and exhibited lack of integrity, devotion to duty, conduct unbecoming of a Government servant and thereby contravened the Rule 3 (1) & (2) of the A.P.Civil Services (Conduct) Rule, 1964 adopted by Telangana State.”

6. This charge is based on the vigilance report. Vigilance report points out several irregularities in procuring medicines. *Prima facie* the vigilance report points out that there were illegalities in identifying the suppliers, no action was taken against the suppliers even when they defaulted in supplying medicines and on placing indent to local pharmacist shops to procure medicines at a higher cost, which are supposed to be supplied by the identified suppliers, and caused huge financial loss.

7. A challenge to charge memo at the initial stage can be tested only on whether the authority who issued charge memo is competent, whether it is contrary to statutory mandate and on the bare look at the charge memo it does not disclose involvement of petitioner and charge is so vague allowing to conduct enquiry into such charge would be a futile exercise. On the face of charge *per se* it cannot be said that it does not make out a misconduct. Further, it is based on vigilance report which points out a finger against petitioner also.

8. It is not in dispute that petitioner is working in the Directorate. The issue as to roles and responsibilities and actual involvement of individual officer/employee has to be gone into in the departmental enquiry. The Court cannot express any opinion on the allegations made on involvement of the petitioner. What is contended in the Writ Petition and submissions made by the learned counsel for petitioner would require this Court to assess the material on record and record finding on the delinquency leveled against the petitioner. This Court cannot enter into the merits of the allegations and record findings in exercise of power of judicial review on a challenge to a charge memo at the threshold. In the facts of this case, the decisions relied upon by the learned counsel for petitioner, do not come to the aid of the petitioner.

9. It is not in dispute that the Government is competent to initiate disciplinary action against any employee. In the case on hand, the vigilance report points out involvement of six persons in irregularities in procurement of medicines, which include Director, Civil Surgeon Specialist, Joint Director (Family Welfare), Deputy

Civil Surgeon and two Pharmacists Grade-II, including the petitioner. As hierarchy of Officers are involved in the alleged illegalities, common proceedings are initiated under Rule 24 of Telangana Civil Services (Classification, Control and Appeal) Rules, 1991 (Rules, 1991) by the Government. Thus, Government is competent to initiate the proceedings and charges are framed by the competent authority.

10. Learned counsel for petitioner also contended that there is selective disciplinary action taken against few officers letting out other officers. As rightly pointed out by the learned Assistant Government Pleader, vide G.O.Rt.No.353 Labour, Employment Training & Factories (Emp-vig) Department, dated 24.07.2019, in exercise of powers vested in Government under rule 24 of the Rules, 1991, common enquiry is ordered, against all the six officers against whom Vigilance Department submitted report. First of the officers mentioned therein is the incumbent Director. However, proceeding against the Director are differed on the ground that documents indicated in U.O.Note dated 24.07.2019 are yet to be received. It is thus clear that action is initiated against all the officers whose names are mentioned in the vigilance report. Therefore, contention of the learned counsel for petitioner on this count is not correct.

11. Even before enquiry commenced, it cannot be assumed that the submissions that may be made by the petitioner would not be appreciated by the enquiry officer and disciplinary authority. Thus, Court is not inclined to entertain the Writ Petition. Writ Petition is accordingly dismissed. However, it is open to petitioner

to raise all pleas as available to her in the enquiry. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

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