

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.20872 OF 2019

DATED :01.10.2019

Between :

P.Vijay Kumar S/o.Mohan,
Aged about 48 yrs, School Assistant (Bio Science),
Government Ashram High School,
Narnoor, Adilabad District.

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Petitioner

And

The Deputy Director (TW),
Utnoor, Adilabad District & others.

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Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioner and learned Government Pleader for the respondents.

2. On 16.03.2018 a Charge Memo was drawn and communicated to the petitioner. The sum and substance of the allegations of the Charge Memo is mis-conduct and mis-behaviour with minor girl boarder of AHS (G) Narnoor on 24.02.2018 and used criminal force with intent to outrage her modesty and committed sexual harassment on a minor girl. Departmental enquiry was ordered into the said charge, Enquiry Officer held the charge as proved. On due consideration of the report of the Enquiry Officer, on 19.08.2019, final show cause notice was issued calling upon the petitioner to submit his explanation as to why punishment of dismissal from service should not be imposed.

3. This show cause notice is challenged primarily on two grounds. Firstly, the show cause notice was not preceded by supply of report of Enquiry Officer. Therefore, the same is illegal and secondly, the show cause notice indicates the punishment that can be imposed. Therefore, it would be amounting to pre-judging the issue even before the explanation is offered.

4. Having regard to Proviso to Rule 9 (x) of the Telangana Civil Services (CCA) Rules, 1991, indicating punishment of dismissal does not amount to pre-judging the issue since on the allegation leveled against the petitioner the only punishment that can be imposed is dismissal from service.

5. However, as fairly submitted by learned Government Pleader, the report of Enquiry Officer was not communicated to the petitioner and therefore, petitioner was not aware of the findings recorded by the Enquiry Officer. Furnishing of the report and calling upon the petitioner to submit his explanation is primary requirement in the disciplinary proceedings before imposing any punishment. Therefore, on that ground, the final show cause notice dated 19.08.2019 is set aside and the matter is remitted to the Deputy Director (TW) Utnoor, Adilabad District-1st respondent.

6. The 1st respondent shall issue fresh show cause notice by furnishing a copy of the Enquiry report and call for explanation. He need not indicate the punishment that he would impose. The fresh show cause notice along with the enquiry report shall be drawn and communicated to the petitioner within two weeks from the date of receipt of copy of this order. Petitioner shall file his explanation within two weeks from the date of receipt of said show cause notice. If explanation is filed, the same shall be duly considered and by assigning reasons in support of the decision, appropriate orders be passed. However, it is made clear that in the event of failing to submit explanation within the time granted, it is open to the disciplinary authority to proceed to pass final orders and he need not grant further time.

7. With the above directions, the Writ Petition is allowed. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

1st October, 2019

Rds