

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**FRIDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE JUSTICE G SRI DEVI

WRIT PETITION NO: 4226 OF 2004

Between:

S.JANARDHAN RAO, S/o.Hanumantha Rao, aged about 54 years, Worked as
AAE (Retd), A.P.Northern Power Distribution Co.Ltd., Banswada, Nizamabad
Dist.

...PETITIONER

AND

1. NORTHERN POWER DISTRIBUTION CO. Of Telangna Ltd., Warangal
rep.by its Chairman & Managing Director.
2. The Chief Engineer (HRD), Northern Power Distribution Co., of Telangana
Ltd., Warangal District.

...RESPONDENTS

(RR CT is amended as per C.O dt 11/02/2016 in WPMP 5320/2016)

Petition under Article 226 of the Constitution of India praying that in the
circumstances stated in the affidavit filed therewith, the High Court may be
pleased to issue a writ or order directen, especials one in the nature of writ of
randamus.

i) declaring the impugned Memo. No.CE/HRD/DS/AS(DC)/64-D/2001-7
dated 20-12-2001, issued by second Respondent, and consequential Appellate
memo NO.CGM (HRD)/GM(S)/AS(DC)/64-D/2001-8 dt.15-3-2003. issued by the
first respondent are illegal, arbitrary and set aside the same; ii) Consequently;
direct the respondents to restore 3) stopped Increments in terms of Impugned
memo No.CE/(HRD/DS/AS(DC)/64-D/2001-7 dated 20-12-2001, to the petitioner,
treating the period from 8-2-2001 to 5-9-2001 as 'on duty' and pay all the
consequential Monetary benefits and Revise his pensionary & other Terminal
benefits accordingly.

WPMP. NO: 9198 OF 2012

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to expedite the hearing of the Writ Petition No. 4226 of 2004 by fixing an early date.

Counsel for the Petitioner : SRI S JANARDHAN RAO (PARTY IN PERSON)

Counsel for the Respondents: ZAKIR ALI DANISH (SC FOR TSNPDCL)

The Court made the following: ORDER

THE HON'BLE JUSTICE G. SRI DEVI

WRIT PETITION No. 4226 of 2004

ORDER:

In this writ petition, the petitioner seeks to set aside the memo No. CE/HRD/DS/AS(DC)/64-D/2001-7, dated 20.12.2001 issued by the Chief Engineer (HRD), A.P. Northern Power Distribution Company Limited, Warangal, [Presently, Northern Power Distribution Company of Telangana Limited], respondent No. 2 herein and the consequential appellate memo No. CGM(HRD)/GM/(S)/AS(DC)/64-D/2001-8, dated 15.03.2003 issued by the Chairman and Managing Director, respondent No.1 herein. By the former memo, while considering the explanation of the petitioner, (A.A.E., Retd.), dated 14.10.2001, submitted in response to the show-cause notice issued by the Corporation contemplating punishment of stoppage of three increments with cumulative effect besides recovery of an amount of Rs.5,35,000/- towards loss sustained by it on account of alleged irregularities committed by the petitioner, the respondent No. 2 awarded punishment of 'stoppage of three increments with cumulative effect besides treating the period of suspension from 08.02.2001 to 05.09.2001 as 'dies non' for the irregularities committed by him. By the latter memo, the respondent No. 1 being appellate authority rejected the appeal preferred by the petitioner confirming the orders passed by the respondent No. 2.

2. The facts of the case, in nutshell, are that the petitioner while working as Additional Assistant Engineer (Operations), Banswada, was placed under suspension vide orders, dated 06.02.2001 by the respondent No. 2, on the ground of irregularities allegedly committed by the petitioner followed by charge memo, dated 29.03.2001 framing five charges. The gist of the charges was that during the relevant period, he had recorded meagre consumption units, not sealed the meters, not replaced the defective meters, not released services; illegally released service connection without work order etc., thereby causing loss to the Company to a tune of Rs.5,35,000/-. The Enquiry Officer, after conducting enquiry into the charges, submitted his report on 30.06.2001 holding four out of five charges proved. Later, the respondent No. 1, accepting the enquiry report, proposed to award punishment of 'stoppage of three increments with cumulative effect' apart from recovering the loss of Rs.5,73,743/- suffered by the Company and accordingly issued show-cause notice on 30.08.2001 directing him to submit his explanation. However, his suspension was lifted and was reinstated into service vide proceedings dated 30.08.2001. Pursuant thereto, the petitioner submitted his explanation dated 14.10.2001 and having not satisfied with the said explanation, final orders were issued by respondent No. 2 on 20.12.2001 awarding the punishment of 'stoppage of three increments with cumulative effect' besides treating the period of

suspension from 08.02.2001 to 05.09.2001 as *dies non*. Even the appeal was also dismissed by the respondent No. 1 on 15.03.2003 confirming the final orders. On 20.06.2003 the petitioner retired from service on medical invalidation grounds.

Heard the petitioner, party-in-person and the learned Standing Counsel for the respondents. Perused the material available on record.

The main contention of the petitioner, party-in-person, is that the enquiry was not conducted properly, that no opportunity was offered to present his case and was not given opportunity to lead evidence on his behalf and therefore, the entire enquiry was hit by violation of principles of natural justice. Further, it is submitted that the Enquiry Officer has categorically observed that the petitioner did not act with any *mala fide* intention and it is only due to work pressure, such mistakes and omissions occurred. But, the final orders issued by the disciplinary authority are outside the scope of the charge memo and the findings of the Enquiry Officer. Even if the disciplinary authority differs with the findings of the Enquiry Officer, a separate notice ought to have been issued to the petitioner for arriving at such different findings. However, in the case on hand, though the disciplinary authority came to a different and independent conclusion that that of findings of the Enquiry Officer,

no notice was issued before issuing the impugned order. On this ground alone, the impugned orders are liable to be set aside.

On the other hand, the learned Standing Counsel for the respondents, reiterating the contents of the counter-affidavit, has contended that during the course of enquiry, the petitioner was given every opportunity to present his case and he was also given opportunity to cross-examine the witnesses. It is contended that it is the discretion of the disciplinary authority to deal with the period of suspension of the incumbent, basing on the gravity of charges. There was no occasion for the disciplinary authority to differ with the findings of the Enquiry Officer so as to issue a separate notice to the delinquent officer, as contended by the petitioner. Further, the punishment imposed on the petitioner is proportionate to the misconduct committed by him, which are imposed duly following the regulations/procedure in vogue and there are no merits in the writ petition.

It is well-settled law that the High Court in such cases of departmental enquiries and the findings recorded therein does not exercise the powers of appellate court/authority. The jurisdiction of the High Court in such cases is very limited for instance where it is found that the domestic enquiry is vitiated because of non-observance of principles of natural justice, denial of reasonable opportunity; findings are based on no evidence, and/or the

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punishment is totally disproportionate to the proved misconduct of an employee.

As seen from the record, the disciplinary authority issued the show cause notice to the petitioner on 30.08.2001 for which, the petitioner also submitted his detailed reply/explanation on 14.10.2001. Even before the Enquiry Officer, the petitioner had participated and after considering the evidence and the defence, the Enquiry Officer submitted his report holding that four charges, out of five, proved. The disciplinary authority has not differed with the findings recorded by the Enquiry Officer, as alleged by the petitioner. The disciplinary authority passed the order of punishment of 'stoppage of three increments with cumulative effect besides treating the period of suspension from 08.02.2001 to 05.09.2001 as 'dies non' for the irregularities committed by him while dropping the proposed action of recovering the amount of Rs.5,35,000/- from the petitioner as the said amount was paid by the Government. Against the order of disciplinary authority, the petitioner preferred the appeal before the appellate authority, respondent No. 1 on 08.02.2003. In the appeal, the petitioner has taken plea related to conduct of disciplinary proceedings. The appellate authority dismissed the appeal vide order dated 15.03.2003 duly considering the final orders passed by the disciplinary authority. Thus, this Court sees no irregularity or infirmity with the impugned orders passed by the

respondents. Even it is not disputed by the petitioner, party-in-person that the loss allegedly suffered by the Company was reimbursed by the Government and thus, there was no actual recovery from the petitioner. Considering all these circumstances, this Court sees no ground to interfere with the impugned orders passed by the respondents.

The writ petition fails and the same is accordingly dismissed.
No costs.

Miscellaneous petitions, if any pending, shall stand closed.

//TRUE COPY//

SD/-B.SATYAVATHI
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. One CC to SRI S JANARDHAN RAO(PARTY IN PERSON), Advocate [OPUC]
2. One CC to SRI. ZAKIR ALI DANISH (SC FOR TSNPDCL), Advocate [OPUC]
3. Two CD Copies
4. One Spare Copy

SB
PS

N.A.

HIGH COURT

DATED:17/06/2022

ORDER

WP.No.4226 of 2004



DISMISSING THE WRIT PETITION
WITHOUT COSTS

(5) VW
21/7/22