

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION No.35422 of 2013

ORDER:

The present Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner challenging the order bearing Lr.No.244/SRDS/SPM(MD)-2/178/2013, dated 06.07.2013, passed by the respondent No.2 - Society for Rural Development Services, Office of the Commissioner for Rural Development, Hyderabad confirming the proceedings bearing No.FNLN/MBNR/0008, dated 18.04.2013, issued by the respondent No.4 - Project Director, District Water Management Agency, Mahaboobnagar District.

2. Heard both sides and perused the record.

3. Learned counsel for the petitioner has stated that the primary and the appellate authorities, without taking into consideration the rules and regulations framed for taking disciplinary action, have passed the orders in a mechanical manner holding the petitioner guilty of the charges levelled against him. Learned counsel has stated that the primary authority except extracting the charges based on the Social Audit Report has not done any independent exercise to frame

the charges against the petitioner. Even though the explanation was submitted by the petitioner, the same was not considered by the primary and appellate authorities. The order passed by the primary authority was challenged by the petitioner in the appeal, in which, the appellate authority without considering the grounds, has thrown the burden on the petitioner to prove the charges framed against him and dismissed the appeal vide order dated 06.07.2013 and therefore, prayed this Court to set aside the same and allow the writ petition.

4. *Per contra*, the learned Standing Counsel for NREGS appearing for respondent No.3 has vehemently opposed the very maintainability of the writ petition and stated that the primary and the appellate authorities duly taking into consideration the Social Audit Report prepared on the basis of G.O.Ms.No.98, dated 09.03.2010, have found the petitioner guilty of the charges and have rightly dismissed him from service and ultimately, prayed this Court to dismiss the writ petition.

5. A perusal of the impugned order dated 06.07.2013 shows that the respondent No.2 has only extracted the charges levelled against the petitioner and held as under:

“The appellant deposed that in respect of land development programmes, the tasks were charged from bush clearance to trench cum bunds, without approval of the competent authority with the intention of providing wage employment to the wage seekers. he also deposed that due to shortage of staff and work pressure he could not follow the procedure in the maintenance of M-Books properly. He also stated that the arrears of work of M-Book, has now been completed.

He has not produced any evidence to disprove the charges.

There is no reason to interfere with the order of Project Director wherein his contract was terminated. The appeal is therefore disallowed for want of merits.

In view of the provision under disciplinary rule of FTEs of SRDS rule 6.5.2(i), the appeal is disallowed.”

The above extract shows that in the impugned order, absolutely, no reasons are given nor any of the grounds mentioned in the appeal filed by the petitioner are adverted to by the respondent No.2. Moreover, the respondent No.2 contrary to the fully established principles of law has thrown the burden on the petitioner to prove the charges framed against the petitioner.

6. Having regard to the above, the impugned orders dated 18.04.2013 and 06.07.2013 are hereby set aside and the matter is remanded back to the authority concerned for passing orders afresh. It is needless to mention that the petitioner shall be given an opportunity of personal hearing before passing any order.

7. Accordingly, this Writ Petition is allowed.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed. No costs.

A. ABHISHEK REDDY, J

Date: 13.02.2023

Pvt