

(2013) 06 AP CK 0045
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 502 of 2013

A. Kanya Kumari

APPELLANT

Vs

The Project Director, The District Women and Child
Development Agency and Member/Convener of Committee
for appointment of Anganwadi Workers and Helpers, The
Child Development Project Officer, ICDS Project, The
Tahsildar and The Sarpanch

RESPONDENT

Date of Decision : 25-06-2013

Acts Referred:

Citation : (2013) 6 ALD 15 : (2014) 1 ALT 151 : (2014) LabIC 454 : (2013) 4 LLN 96

Hon'ble Judges : Ashutosh Mohunta, J; A. Rajasheker Reddy, J

Bench : Division Bench

Advocate : P. Rajasekhar, for the Appellant; G. Elisha, for the Respondent

Final Decision : Dismissed

Judgement

A. Rajasheker Reddy, J.—This Writ Appeal is filed against the order, dated 14.02.2012, passed in W.P. No. 20739 of 2010 wherein the learned Single Judge dismissed the writ petition upholding the order of removal of the appellant as Anganwadi Worker by the 1st respondent. The appellant joined as Anganwadi Worker in Jampapalem Anganwadi Center in the year 2002. Basing on the complaint, dated 20.10.2009, made by the Sarpanch of Jampapalem Village and others against the appellant during Rachabanda Programme, the 3rd respondent conducted surprise visit to the Anganwadi Center and found certain discrepancies in food stocks and recorded the statement of the appellant and reported the same to the 1st respondent. The 2nd respondent issued a show cause notice No. 16/09, dated 26.10.2009, calling upon the appellant as to why disciplinary action shall not be taken in order to remove her from service and submit her explanation within four days from the date of receipt of the show cause notice and later conducted enquiry on 13.12.2009 and got recorded the statements from the appellant and others and submitted a report to the 1st respondent. The

appellant submitted an explanation to the show cause notice issued by the 2nd respondent. Basing on the report of the 3rd respondent, the enquiry report of the 2nd respondent and the statement and explanation of the appellant, the 1st respondent removed the appellant from the post of Anganwadi Worker, through proceedings No. 1356/2009/E2, dated 15.04.2010. The same is questioned in the writ petition.

2. The 1st respondent filed a counter stating that on a complaint lodged against the appellant, enquiry was conducted and as the charges were proved, the 1st respondent removed the appellant from the post of Anganwadi Worker. It is also stated that the procedure is followed in removing the appellant and the appellant herself admitted that she committed the irregularities. It is further stated that a notification was issued and another person was appointed in place of the appellant.

3. The learned Single Judge, after elaborate discussion, dismissed the writ petition holding that the allegations stand proved on the basis of self-admissions of the appellant. The learned Single Judge also found that the appellant was not holding any civil post and cannot import the requirements of Classification, Control and Appeal Rules, as applicable to State or Central Government employees and, as such, the requirement of furnishing of Enquiry Officer's report as alleged in the present case does not vitiate the impugned proceedings, inasmuch as the impugned proceedings are issued on the basis of the admitted statements of the appellant herself. The said order of the learned Single Judge is under challenge in this writ appeal.

4. Learned counsel for the appellant reiterates the same submissions made before the learned Single Judge that the enquiry report was not furnished to the appellant, as such, imposition of punishment of removal of the appellant is bad and in violation of the principles of natural justice, as held in *Shriyans Prasad Jain Vs. Income Tax Officer and others*, He contends that charge Nos. 1 and 3 were not proved and the irregularities mentioned in charge No. 2 could be rectified, even as per the enquiry officer's report, as such, the punishment could not have been imposed on the appellant. He submitted that the punishment imposed on the appellant is too harsh and the variation of stocks shown is also minor.

5. On the other hand, learned counsel for the respondents argued that basing on the complaint against the appellant, enquiry was conducted and the Committee recommended for removal of the appellant and, accordingly, the 1st respondent passed the order of removal of the appellant. It is also contended that a show cause notice was issued, for which, the appellant had submitted explanation, as such, question of violation of principles of natural justice does not arise. It is submitted that the appellant herself admitted the irregularities, as such, the punishment of removal was imposed, as the charge involved is a grave one and that the learned Single Judge had not committed any error in dismissing the writ petition.

6. We have gone through the impugned order in the writ petition wherein the punishment of removal of the appellant is based on the admissions of the appellant herself. While imposing the punishment, a show cause notice was also issued to the appellant by the 2nd respondent, for which, the appellant submitted an explanation. As the impugned order is based on the admissions of the appellant herself, it cannot be held that there is violation of principles of natural justice. As rightly held by the learned Single Judge, the appellant was not holding a civil post, as such, requirements of classification control and appeal rules as applicable to State or Central Government Employees cannot strictly be imported into this case. Even otherwise, when the impugned order is based on the admissions of the appellant, non-furnishing of enquiry report to the appellant does not in any way prejudice her case. The principles of natural justice cannot be in a straitjacket formula. When the charge is admitted, the serving of enquiry report does not alter the position.

7. The Hon''ble Supreme Court, in a decision reported in *Municipal Committee, Hoshiarpur Vs. Punjab State Electricity Board and Others*, as follows:

The principles of natural justice cannot be applied in a vacuum without reference to the relevant facts and circumstances of the case. Thus, they cannot be put in a straitjacket formula.

13. ...Natural justice is (not an) unruly horse, no lurking landmine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of.

The two rules of natural justice, namely, *memo judex in causa sua* and *audi alteram partem* now have a definite meaning and connotation in law and their contents and implications are well understood and firmly established; they are nonetheless non-statutory. The court has to determine whether the observance of the principles of natural justice was necessary for a just decision in the facts of the particular case, (vide *The Chairman, Board of Mining Examination and Chief Inspector of Mines and Another Vs. Ramjee, Union of India and Another Vs. Tulsiram Patel and Others*, and *Shriyans Prasad Jain Vs. Income Tax Officer and others*,

There may be cases where on admitted and undisputed facts, only one conclusion is possible. In such an eventuality, the application of the principles of natural justice would be a futile exercise and an empty formality, (vide *State of Uttar Pradesh Vs. Om Prakash Gupta*, *S.L. Kapoor Vs. Jagmohan and Others*, and *U.P. Junior Doctors' Action Committee Vs. Dr B. Sheetal Nandwani and Others*,

In view of the same, the decision cited by the learned counsel for the appellant has no application to the facts of the case. The decision cited by the learned counsel for the appellant was also referred to in the judgment of the Apex Court.

8. It is also to be seen that charge No. 2 relates to recording of attendance by the appellant. As per this charge, the appellant noted more attendance than the children present which goes to show that she had mis-utilised her position in the recording of attendance which she has admitted and, in view of that also, as rightly held by the learned Single Judge, there cannot be any interference with the order of removal of the appellant from the post of Anganwadi Worker passed by the 1st respondent.

9. In view of the above and in the facts and circumstances of the case, we are of the view that there is no infirmity in the order of the learned Single Judge.

10. Accordingly, the Writ Appeal is dismissed. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any, pending in the writ appeal shall stand disposed of.