(1998) 09 AP CK 0046

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12916 of 1990

A. Rama Rao APPELLANT

Vs

Deputy General Manager and Others RESPONDENT

Date of Decision : 01-09-1998

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (1998) 5 ALD 553 : (1998) 5 ALT 354

Hon'ble Judges : G. Bikshapathy, J

Bench : Single Bench

Advocate : Mr. Y. Krishna Reddy, for the Appellant; Mr. A. Gopal Reddy, SC for C. Bank, for the Respondent

Judgement

1. The writ petition is filed seeking writ of Certiorari and quash the order of removal passed by the 1st respondent dated 21-5-1990 and confirmed by the appellate authority-2nd respondent dated 17-8-1990 and for consequential relief.

2. The petitioner was a native of Vegeswarapuram village near Polavaram Agency area in West Godavari District. According to him, he completed Intermediate in Government Junior College, Kovvur and B.Com. at Bhimavaram. According to him he was bom on 1-7-1954 and he belonged to ''Medari'' Community. It is his case that he applied for scholarship as a Backward Class candidate when he was studying B.Com. However, the District Social Welfare Officer did not grant scholarship on the ground that ''Medari'' Community falls under Schedule Tribe and therefore he cannot claim scholarship under BC Category. Accordingly, the scholarship was stopped for one year. He was however permitted to apply for scholarship under the ST category for 2nd year B.Com. and the same was recommended by the District Social Welfare Officer and the scholarship was granted by the District Collector. Similarly, he was sanctioned scholarship for the-III year B.Com. also.

3. While so, notification was issued by the Bank on 21-8-1976 calling for applications for filling up the posts of Clerks, Accordingly, the petitioner appeared

for the same and got selected and he was appointed on 11-4-1977. His probation was also declared on 11-10-1977. Thereafter, he was promoted to Officer Grade in the year 1990 and he was also confirmed in the Officer grade on 18-4-1995.

4. It appears that an anonymous complaint was sent to the Bank in the year 1985 stating that the petitioner did not belong to ST and that the said complaint was referred to the District Collector, West Godavari District. However, the case of the petitioner that he applied for the post on the basis of the certificate issued by the Tahsildar, Kowur, and that he mentioned his caste as ''Medari'' falling under ST and that he was innocent of the charge that he produced false certificate. The petitioner stated that the District Collector sent a communication to the Bank on 20-12-1985 stating that the petitioner belonged to ST and the file was closed in the year 1985 itself. But, however, the Bank again kept the correspondence in progress and the District Collector issued notice to the petitioner on 28-11-1988 calling upon him to explain as to why the certificate issued by the Tahsildar dt. 20-2-1977 should not be cancelled, to which the petitioner submitted reply on 14-12-1988. It appears the District Collector has sent a letter to the Bank stating that the petitioner did not belong to ST . It is the case of the petitioner that no orders were passed in pursuance of the show cause notice dated 28-11-1988 by the Collector. When the petitioner was suspended, he filed Writ Petition No.16918 of 1998 before this Court and the same was disposed of with a direction to conduct enquiry within a period of three months. There upon, a charge-sheet was issued and the enquiry was conducted and finally he was imposed with punishment of removal from service, by order dated 21-5-1990. Against the said order, the petitioner filed an appeal before the appellate authority-2nd respondent herein and the same was also rejected. Therefore, the present writ petition has been filed challenging the order of punishment imposed by the 1st respondent as confirmed by the 2nd respondent.

5. The petitioner urged number of grounds to say that the enquiry was wholly unwarranted and in any event it was vitiated for violation of principles of natural justice. He also submits that the findings of the enquiry are wholly untenable and based on no evidence. The petitioner also submitted that the enquiry conducted by the District Collector was behind his back, and therefore, such ''an enquiry ought not to have been relied on by the Bank for holding that he produced a false-ST certificate. It is also his case that he never produced the forged document dated 20-12-1985 and that was the document given to the petitioner when he approached the Collector office with regard to the enquiry conducted in connection with genuineness of ST certificate submitted by the petitioner. He also submits that order passed by the 1st respondent is cryptic and devoid of any reasons whatsoever. Hence, it is illegal and invalid.

6. In the counter filed on behalf of the Bank it is stated that the petitioner obtained appointment as a clerk in the Bank on the basis of a false ST certificate and thereby he denied the opportunity of employment to other genuine ST candidates. It is further stated that an anonymous complaint was received in

September, 1984 to the effect that the petitioner did not belong to ST. The matter was referred to the Collector concerned on 27-3-1985 and since he did not reply, the Bank sent number of letters to the Collector and also the Government during the years 1986-87. Thereafter, the Bank received letter on 9-4-1988 from the Collector stating that the petitioner belonged to Backward Class and that the letter produced by the petitioner dated 20-12-1985 was not a genuine letter. It is also the case of the Bank that an appropriate enquiry was conducted in accordance with the provisions of the Canara Bank Discipline and Appeal Regulations and that the contention that the principles of natural justice are violated is only an after thought. It is also submitted that the order of punishment passed by the 1st respondent is quite legal and valid and the same is unassailable, so also the order of the appellate authority does not suffer from any infirmity.

7. The point that arises for consideration is whether the enquiry in respect of the charge is appropriate and whether the punishment imposed by the 1st respondent as confirmed by the 2nd respondent is valid and sustainable in law?

8. There is no dispute about the appointment of the petitioner to the post of Clerk under ST quota and his subsequent promotion as Officer. Admittedly, in the instant case two charge-sheets were issued to the petitioner on the same date. The details of the charge-sheets are as follows:

"You have produced a false letter (D.Dis.2201/85), dated 20--12-1985 purported to have been issued by the District Collector, West Godavari District to cover up your earlier act in obtaining employment in the Bank by misrepresenting yourself as ST (Charge Sheet No.HYSO/ 17999/E.37/CH.20/90, dated 21-2-1990) (hereinafter referred to as Charge-Shcet No.1)

You secured job in the Bank by misrepresentation and by producing false caste certificate stating that he belongs to ST and also failed to inform the Bank of the proceedings of the the District Collector, West Godavari District dated 31-12-1998 issued to you.

(Charge-sheet No.HYSO 10000/E.37/ Ch.20/90 dated 21-2-1990 (hereinafter called charge-sheet No.2)"

From the charge-sheets No. 1 and 2 referred to above, it is seen that two separate charges were framed under two different charge-sheets. In the instant case we are concerned only with the 1st charge-sheet, namely, alleged production of forged letter dated 20-12-1985 purported to have been addressed by the District Collector to the Deputy General Manager, Canara Bank to cover up his earlier act in obtaining employment in the Bank by misrepresenting himself as ST. This is also confirmed by the Bank in their counter at page 9 which reads thus:

"It is relevant to submit that in the instant case securing employment by the petitioner by producing a false caste certificate is not in issue and he was not removed from service on that ground. He was removed from service for production of a forged and got up letter alleged to have been written by the Collector to the Bank with a view to cover up his action of producing a false caste certificate. The averment that the letter dated 20-12-1985 is true and genuine is not correct as it was proved otherwise in the enquiry."

9. This Court is conscious of the parameters of the exercise of judicial review over the actions of the disciplinary authorities. Neither this Court can re-appreciate the evidence on record in the enquiry nor it can interfere on the ground of insufficiency of the evidence or otherwise. But, however, if there were procedural irregularities and the enquiry was conducted contrary to the regulations framed by the Bank or if the findings are perverse and based on no evidence, it is always open for this Court to interfere with such proceedings under Article 226 of the Constitution of India.

10. The Bank has produced the original enquiry file before this Court and I have perused the same meticulously. The 1st charge sheet was issued on 21-2-1990. The relevant paras are extracted hereunder :

"On receiving a complaint alleging that . you do not belong to ST community, the matter had been referred to the Collector and District Magistrate, West Godavari District, Eluru for necessary verification. The District Collector, West Godavari District informed the Bank that you do not belong to ST community. The District Collector after giving you due -notice, cancelled the earlier caste certificates dates 4-3-1976 and 20-2-1977 issued to you by Tahsildar, Kowur. The cancellation was also published in the West Godavari District Gazzette dated 1-2-1989.

On being informed by the Collector and District Magistrate that you do not belong to ST community an explanation has been called for from you vide our letter HYSO 4729 E.113(i) 89 dated 8-5-1989.

While submitting your reply dated 8-6-1989 to the above, you produced a xerox copy of the letter D.Dis 2201 of 85 dated 20-12-1985 purported to have been addressed by the then District Collector, West Godavari District, to the Deputy General Manager, Canara Bank, Hyderabad Circle Office, stating that you belong to ST community.

On verification it is found that the above letter dated 20-12-1985 filed by you is a forged one.

Thus you have produced a forged letter purported to have been issued by the District Collector, West Godavari District to cover up your earlier act in obtaining employment in the Bank by misrepresenting yourself as ST.

By your above action you have acted in a manner which is unbecoming of an officer employee of the Bank and violated Regulation 3(1) of Canara Bank Officer Employees'' (Conduct) Regulations 1976 and thus committed a misconduct within the meaning of Regulation 24 of Canara Bank Officers Employees (Conduct)

Regulations 1976 which is punishable under Canara Bank Officer Employees (Discipline and Appeal) Regulations, 1976."

The statement of imputations in support of the charges is as follows:

"Sri A Rama Rao entered into services of the Bank representing himself as ST candidate by producing ST Caste certificates dated 4-3-1976 and 20-2-77 issued by Tahsildar, Kowur, West Godavari District and by submitting a declaration claiming himself to be ST candidate. He also secured promotion to officer''s cadre under the reserved quota for ST candidates on 18-4-1984.

On receiving a complaint dated 26-9-84 alleging that he does not belong to ST community, the matter was referred to the Collector and District Magistrate, West Godavari District,Eluru, for necessary verification. The District Collector, West Godavari District, Eluru informed the Bank that he does not belong to ST community. The said District Collector after giving him due notice dated 28-11-88 cancelled the certificates dated 4-3-76 and 20-2-77 issued to him by the Tahsildar, Kowur vide his letter Rl KA 9732 of 88 G dated 31-12-88. The cancellation was also published in West Godavari District Gazette dated 1-2-1989.

On the District Collector confirming to the Bank that Sri A. Kama Rao belongs to BC category only, an explanation was called for from him vide our letter HYSO 4729 E113(i) 89 dated 8-5-1989.

While submitting his reply dated 8-6-89 to the above, Sri A. Rama Rao, along with his letter dated 8-6-89 produced a xerox copy of the letter bearing reference No.D Dis 2201 of 85 dated 20-12-1985 purported to have been issued by the District Collector, West Godavari District, Andhra Pradcsh addressed to the Deputy General Manager, Staff Section (O), Circle Office, Canara Bank, Hyderabad. The above letter states that Sri A. Rama Rao belongs to Scheduled Tribe and the caste certificate issued by the Tahsildar Kowur is genuine.

Since no such letter of the District Collector, West Godavari District, was received by the Deputy General Manager or the Bank, the matter was referred back to the District Collector. The District Collector, West Godavari District, vide letter dated 12-9-1989 informed the Bank that the said letter dated 20-12-1985 produced by Sri A.Rama Rao was never issued from his office and that it was a forged one. The District Collector, West Godavari District had also informed the Bank vide letter ROC G 3 9732 of 88 dated 16-9-89 that Sri N. Saiyanarayana, whose signature is found on the communication bearing No.D Dis 2201 of 85 dated 20-12-1985, has been enquired and that he has categorically stated that the signature was not his. A photo copy of the statement dated 13-9-1989 obtained by the District Revenue Officer, West Godavari District was also forwarded to the Bank.

Thus, Sri A. Rama Rao has produced a forged letter with a mala fide intention to cover up his earlier act in obtaining employment by misrepresentation that he belonged to ST community.

By his above action Sri A. Rama Rao acted in a manner which is unbecoming of an officer employee of the Bank and thus violated Regulation 3(1) of Canara Bank Officer Employees (Conduct) Regulations 1976 and committed a misconduct within the meaning of Regulation 24 of Canara Bank Officer Employees (Conduct) Regulations, 1976, punishable under the provisions of Canara Bank Officer Employees (Discipline and Appeal) Regulations, 1976."

Therefore, reading of the charge itself shows that the matter relating to alleged submission of false ST certificate was sent for enquiry to the Collector, West Godavari District. It appears that the District Collector cancelled the certificate issued to the petitioner by the Tahsildar, Kowur dated 4-3-1976 and 20-2-1977 by proceedings dated 31-12-1988. The District Collector, issued a show-cause notice dated 28-11-1988 to the petitioner. From the letter of the petitioner to the Bank, it is seen that he enclosed a copy of the letter dated. 20-12-1985 written by the District Collector to the Bank that the petitioner belonged to ST category. Thereafter the petitioner submitted explanation to the show-cause notice. It is only after the intimation was sent to the Bank, the Bank issued memo dated 8-5-1989 calling upon the petitioner to show-cause as to why appropriate action should not be taken against him, to which the petitioner submitted explanation on 8-6-1989 stating that he belonged to ST and that the Tahsildar, Kowur issued the certificates to that effect on 4-3-1976 and 20-2-1977. In the said explanation he also stated that his caste was also confirmed by the District Collector, West Godavari District vide his letter dated 20-12-1985 addressed to the Bank and enclosed xerox copy of the letter. The format of the copy of the said letter is as follows:

"D DisNo.2201 of 85 W.G. Collectorate Eluru,dt. 20-12-85. From

Sri P.K. Agarwal, IAS. Collector, West Godavari, Eluru.

To

The Deputy General Manager, Staff Section (0), Canara Bank, Circle Office, Hyderabad. Opp: Old MLA Quarters, Himayathnagar.

Sir,

Sub :--Caste- Caste verification of Sri Ankolu Rama Rao, Native of Vageswarapuram, Tallapudi Mandal - Enquired into the caste report - Submitted- Rcg. Ref : (1) This office Roc.G3-2201/85 dated 11-4-85. (2) Revenue Divisional Officer, Kovvur, D Dis.(n) 1496/85 dated 19-9-85. ..... I invite attention to the reference cited. The Revenue Divisional Officer, Kovvur has enquired into the Caste Verification of Sri Ankolu Rama Rao of Vageswara puram, Talfapiidi Mandal Caste Madari belongs to Scheduled Tribe, then the Tahsildar, Kovvur has issued Caste Certificate is genuine.

Yours faithfully,

Sd/-B. Narasaiah, For Collector, West Godavari, Eluru.

Sd/- (N. Satyanarayana) for Huzuru Head Clerk."

In view of this letter and also the communication of the Collector dated 31-12-1985 cancelling the ST certificate issued by the'' Tahsildar, the Bank sought for clarification on 27-4-1989 as to the genuineness of the letter dated 20-12-1985. For the said letter, a reply was sent on 12-9-1989 by the Collector stating that the photostat copy of the letter dated 20-12-1985 said to have been submitted by the petitioner was not genuine as a file bearing No.220I of 85 was closed on 22-8-1985 itself. It appears that the District Revenue Officer also got recorded the statement of N. Satyanarayana on 13-9-1989 by some other employee. The said statement was recorded on the basis of the statement made by Mr. Satyanarayana on 13-9-1989, wherein it was stated that he did not sign the letter dated 20-12-1985. It was stated therein that it might have been forged by somebody.

11. In support of the charges, 3 witnesses were examined and 36 documents were marked. The petitioner marked 7 documents. The Enquiry Officer held the petitioner guilty of the charges.

12. The learned Senior Counsel Mr. R. Venugopal Reddy, appearing for the petitioner, submits that the charge itself is unwarranted as it would not constitute misconduct, that the enquiry officer has completely misconstrued the scope of the charge and proceeded with the enquiry as if he was asked to enquire on 1st and 2nd charge sheets and whereas he ought to have confined the enquiry only to the extent whether the petitioner had submitted false communication dated 20-12-1985 that it is not a composite enquiry in respect of both the charge-sheets and that the Bank itself had admitted that the enquiry was confined only to the charge of production of false communication dated 20-12-1985, and that, therefore, in any event without first proceeding with the 2nd charge-sheet, conducting enquiry with the first charge-sheet is wholly unwarranted and illegal, It is only when the charge of the obtaining employment by producing false Scheduled Tribe Caste certificate is established, the 2nd charge that he produced false letter dated 20-12-1985 becomes relevant. But, without holding the petitioner guilty of misrepresentation and securing employment in the Bank by charge sheet No.2, it would be most inappropriate to hold the petitioner guilty of having produced forged letter with an intention to cover up the act of obtaining employment by misrepresentation.

13. On the other hand, learned Counsel for the Bank submits that the enquiry was not spread over to the finding with regard to the production of false certificate. When two independent charge-sheets are issued it is always open to the Bank to proceed independently with each charge and record finding and impose punishment. It is not necessary that the charge relating to the obtaining employment by misrepresentation should have been proceeded with earlier instead of proceeding with the later charge of producing a forged letter. Therefore, no infirmity can be attributed to the proceedings impugned.

14. As already noticed earlier, two charge-sheets were issued on the very same date and they were extracted in the earlier part of this judgment. The main charge is that the petitioner obtained employment by misrepresentation and by producing false caste certificate stating that he belongs to Scheduled Tribe and also failed to inform the Bank of the proceedings of the "District Collector, West Godavari District dated 31-12-1988 issued to the petitioner. However, when the communication received from the District Collector that the Scheduled Tribe Caste Certificate obtained by him was cancelled was put to the petitioner, he mentioned in the explanation that he was not guilty of the allegation of producing false caste certificate and that the correct certificates were issued by the Tahsildar and further the District Collector also informed the Bank that the petitioner belonged to Scheduled Tribe in the letter dated 20-12-1985. He enclosed a copy of this letter. But, however, the Bank again verified from the Collector as to the genuineness of the communication issued on 20-12-1985 and a letter was received to the effect that it was not a genuine letter. This was made yet another charge stating that he produced forged letter dated 20-12-1985.

15. The question that falls for consideration is: whether the subject matter of charge as framed against the petitioner is a sustainable independent charge connecting the act with the alleged misconduct or whether it is an inconsequential charge in view of charge sheet No.2 and the manner in which the Enquiry Officer proceeded with the charge?

16. The charges in the 1st and 2nd charge-sheets for the purpose of comparison and appreciation are under:

"you have produced a false letter (D Dis.2201/85), dated 20-12-1985 purported to have been issued by the District Collector, West Godavari District to cover up your earlier act in obtaining employment in the Bank by misrepresenting yourself as Schedule Tribe. (Charge Sheet No.HYSO/ 17999/E.37/CH. 20/90, dated 21-2-1990).

You secured job in the Bank by misrepresentation and by producing false caste certificate stating that he belongs to Scheduled Tribe and also failed to inform the Bank of the proceedings of the District Collector, West Godavari District dated 31-12-1988 issued to you.

(Charge-sheet No. HYSO 10000/E.37/ CH.20/90 dated 21-2-1990)."

The 1 st charge implies that the petitioner had produced a false Scheduled Tribe Caste Certificate and to cover up that mistake he produced a forged letter dated 20-12-1985. But, the fact remains that the 2nd charge-sheet is yet to be enquired into. Unless the 2nd charge-sheet is enquired and decided one way or the other, it is inappropriate to proceed with the 1st charge-sheet. Even though two separate charge-sheets were issued setting out two charges, yet, the content of the charges is decissive factor. Moreover, I find the alleged production of false communication dated 20-12-1985 is only an aiding document to the Management for proving the charge of production of false Scheduled Tribe Caste

Certificate. Framing of a charge that he produced a false letter dated 20-12-1985 has no relevancy in the context of the matter. If the charge of producing false caste certificate is not proved, this document becomes inconsequential and the charge pales into insignificance. Even if the main charge is proved, the ancillary charge loses its force and becomes redundant. It is also not understood why the Bank did not proceed with the principal charge of obtaining employment by producing false Scheduled Tribe Caste Certificate, and on the other hand, embarked upon most insignificant and irrelevant charge. Further, it is the document produced by the petitioner to sustain his contention that he did not produce false Scheduled Tribe Caste Certificate. The said document is a part of the defence of the petitioner and that defence cannot be extricated and made as another charge. It is open for the Bank either to rely on the document or to reject the same, but it cannot go into the genuineness or otherwise of each and every document produced by the petitioner in his defence and again frame a charge if such document was found to be non-genuine. At that rate, there coutd not be any finality to the enquiry proceedings. When once the petitioner produced a document, it is for him to establish the legality and genuineness of the said document. If he did not establish, the document may be discarded as if it has no evidentiary value, but, at the same time, it cannot constitute a misconduct on the part of the petitioner. It is not the case of the Bank that the petitioner by producing letter dated 20-12-1985 obtained any illegal benefit. The petitioner was only making an attempt to press into service the document dated 20-12-1985 to establish that the Scheduled Caste Certificate issued by the Tahsildar was found to be genuine by the District Collector. The Bank in its wisdom appears to have thought it fit to order enquiry on the first charge presumbly on the premise that if the petitioner was not found guilty, the Bank could proceed again with the 2nd charge.

17. It is now well settled proposition that the charges should be specific and unambiguous. Clarity and precision are the essential requirements of an imputation. Vague and inappropriate charges vitiate the enquiry proceedings. If the charges are inter connected and indivisible, it is always desirable to order joint enquiry. Splitting the charges and issuing separate charge-sheets and ordering different enquiries create incoherent situation, such as the one present in this case. Fair opportunity and fair play in action are the inevitable ingredients of principles of natural justice. In disciplinary proceedings the defence of the delinquent employee is the precious and vested right. Thwarting such defence by the management amounts to foreclosing his right to fair trial. In this case, the management had pre-empted the defence of the employee by converting the defence as a separate charge. Such an action is wholly illegal and in gross violation of principles of natural justice.

18. Accordingly, I find that framing of 1st charge and proceeding with the enquiry is wholly illegal and arbitrary.

19. Further from the perusal of the enquiry proceedings I find that the Enquiry

Officer also proceeded with the enquiry on the issue whether the petitioner had produced the false ST Certificate. It could be seen from para 5.8 of the findings of the Enquiring Authority as follows:

"Finally the defence has not questioned the authority of District Collector for cancellation of the caste certificate as pointed out by the PO. As 1 have already gone through and observed the various documents submitted by the PO and CSO and also the arguments made by the CSO I am convinced that the Collector after due enquiries-and after affording opportunity to the CSO cancelled the caste certificates issued earlier and observed that CSO belongs to BC only."

And, after recording such a finding, he goes to consider the genuineness of the document dated 20-12-1985 and holds as follows:

"From the above, it is clear that the document, namely ME 24J, ME 18J, which are copies of D6, is a forged one."

Further, he records as follows:

"Whether the CSO has produced the forged letter to cover up his earlier act in obtaining employment or not.

The CSO secured employment by producing false caste certificate. From a complaint received, bank started enquiring into the matter which has come to the knowledge of the CSO as stated by him in his brief Page 9 ME 16 was served on him asking him to prove that he belonged to ST category. I have every reason from the above to believe that to cover up the issue he has submitted a forged copy of document namely D6 to to the Bank viz. ME 18C/ ME 24J to make the bank believe that Collector closed the issue during 1985 itself. The CSO could not produce any other document or oral testimony to prove otherwise".

The finding "the CSO secured employment by producing false certificate" is a finding which ought not to have been given by the Enquiry Officer when there is a specific charge which has not yet been enquired into. Further, from the conclusion it is also noticed that the Enquiry Officer found all the charges established, when there was only one charge. This can be seen from the last para of the Enquiry Officer report which reads:

"Conclusion:- Considering the evidence placed before me both in support of the charges and by the defence and material provided by both sides I find that all the charges are established and proved. 1 accordingly hold the CSO guilty of the charges" (underlined by me)

But, however, I find at page 11 of the Enquiry Report that over the word ''charges'' V is struck off with pencil and the word ''all'' is rounded off with pencil, thereafter over the word ''charges'' V is struck off and the word ''are'' is struck off with pencil and the word ''is'' is written above that with pencil, and in the last sentence over the word ''charges'' V is struck off with pencil. That goes to establish that the Enquiry Officer did proceed with the two composite charges, whereas he was required to proceed with only one charge of submitting the alleged false letter dated 20-12-1985. This finding of mine is also supported by the contention raised by the Presenting Officer in his written brief, wherein he himself had stated in the initial para stating that the analysis of charge-sheet bring the following issues to the fore:

"In terms of the proceedings of the Deputy General Manager, HYSO/18942/ E.37/90 dated 8-3-90, I was appointed as the Presenting Officer in respect of the above charge-sheet. Based on the depositions of witnesses and other documentary evidence brought on record during the process of enquiry, I submit my brief, regarding the charges levelled against Sri A. RamaRao, as under : An analysis of charge-sheet issued to Sri A. Rama Rao brings the following issues to the fore:

1. Whether Sri A. Rama Rao entered the services of the Bank by misrepresenting himself as ST candidate and availed promotion under the quota meant for STs.

2. When the Bank referred the matter of ST caste verification to the District Collector, Eluru on the Bank receiving a complaint, whether the District Collector found Sri A. Rama Rao as non-ST candidate.

3. On calling for explanation by the Bank on hearing the cancellation of ST caste certificate/s of Sri A. Rama Rao, whether the letter of District Collector dated 20-12-1985 produced by Sri A. Rama Rao as an enclosure to his reply dated 8-6-1989 is genuine or forged?

4. Whether Sri A. Rama Rao produced the above letter to cover up his latter act/ s?

On behalf of the management, 75 documents have been marked as exhibits (ME 1 to ME 33E along with sub-divisions thereof) and three witnesses were examined. A listof documents and names of witnesses are furnished in the annexure".

Thus, the Presenting Officer also proceeded under the misconception that the charges of obtaining employment by misrepresentation is also covered in the enquiry, while in fact, it is the clear case of the Management that the enquiry was held only with regard to the alleged submission of forged letter dated 20-12-1985. Even number of documents relating to the false Scheduled Tribe Caste certificate charge were filed in the enquiry. Thus, 1 find that the Enquiry Officer proceeded with the matter as if he was called upon to conduct enquiry on both the charges. Therefore, it has to be necessarily held that the Enquiry Officer usurped the jurisdiction not conferred on him.

20. For the foregoing reason, I find that the enquiry is vitiated and, consequently, the order of punishment and the order of the appellate authority are set aside. Since the Management of the Bank has already reserved one more charge sheet yet to be enquired into, I direct the respondent to proceed with the 2nd charge sheet No.HYSO/10000/E.37/ Ch.20/90 dated 21-2-1990 in

accordance with law. The petitioner shall be deemed to have been continued under suspension, pending enquiry, and he shall be paid subsistence allowance in accordance with the Rules right from the date of order of removal till the final orders are passed. However, the enquiring authority shall proceed with the matter only on the basis of the evidence and the documents filed in the enquiry and it shall not in any way be influenced by the enquiry proceedings nor the enquiry findings, which are quashed in this writ petition.

21. Writ Petition is accordingly allowed with directions. No costs.

