
(2023) 03 TEL CK 0108
In the Telangana High Court
Case No : Writ Petition No. 35439 Of 2021

G.Sadanandam Goud

APPELLANT

Vs

State Of Telangana And 3 Others

RESPONDENT

Date of Decision : 31-03-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 20

Telangana State Civil Services (Classification, Control and Appeal) Rules, 1991 — Rule 9(6), 20, 20(4)

Citation : (2023) 03 TEL CK 0108

Hon'ble Judges : K.Sarath, J

Bench : Single Bench

Advocate : Pratap Narayan Sanghi, Avadesh Narayan Sanghi,

Final Decision : Disposed Of

Judgement

1. This Writ petition is filed under Article 226 of Constitution of India, seeking the following relief:

"....to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, calling for the records relating to and connected with the proceedings of the respondent No.2 issued vide Proceedings No.RC.No.0827/B1/2021 dated 29.09.2021 confirming the orders passed by the respondent No.3 vide Proceedings No.1791/A1/2017 dated 17.03.2017 and set aside the same holding it absolutely arbitrary and erroneous and violative of Articles 14 and 21 of Constitution of India and consequently direct the respondents to grant all consequential service benefits including arrears of increments, seniority, promotion and all other service benefits....."

2. Heard Sri Pratap Narayan Sanghi, Learned Senior Counsel for Sri Avadesh Narayan Sanghi, appearing for the petitioner and the Learned Assistant Government Pleader for Services-I appearing for the respondents.

3. The Learned Counsel appearing for the petitioner submits that the petitioner is holding the post of President of State Teachers Union, Telangana State and a charge Memo was issued by the District Educational Officer, Ranga Reddy on 17.03.2017, stating that the petitioner was participated in the meeting conducted with the contesting candidates by the Returning Officer, Mahabubnagar-Ranga Reddy-Hyderabad Teachers' constituency by invoking Rule-20 of CCS CCA Rules, proposing to impose major punishment, for which the petitioner submitted his explanation. An inquiry Officer was appointed, but the Enquiry Officer neither conducted any enquiry nor examined any witnesses, nor followed any procedure while conducting the enquiry and the said exercise is in gross violation of Rule-20 of TS CS (CCA) Rules and therefore the same is liable to be set aside.

4. The learned Counsel for the petitioner further submits that it is mandatory on the part of the respondents to give basis of the charges while issuing Charge Memo as per Rule-20 of TS CS (CCA) Rules, 1991 the documents on which the department is relying and the list of witnesses to whom they proposed to enquire, but except issuing a Charge Memo under Annexure-I nothing is mentioned or reflected in the Charge Memo including the basis of issuance of Charge Memo. The Enquiry Officer relied upon some statements who were neither examined nor any copy was served. The petitioner was not allowed to cross examine and hence the same was gross violation of principles of natural justice.

5. The learned Counsel for the petitioner further submits that the petitioner filed appeal against the punishment order 06.03.2021 and the respondent No.2 without taking into account the contentions raised by the petitioner in the appeal and without following the T.S.C.S (CCA) Rules, 1991 rejected the appeal vide Rc.No.0827/B1/2021 dated 29.09.2021 and there is no bar for filing the writ petition without availing the provision of filing the revision petition against the rejection order and requested to allow the writ petition.

6. The learned Assistant Government Pleader for Services-I basing on the counter submits that the Returning Officer, MBNR-RR-HYD Teachers Constituency and Additional Commissioner (REV. ADVT. & TL), vide letter No.405/Elect/GHMC /2017/180 dated 28.02.2018 informed the respondent that Sri Katepalli Janardhan Reddy, MLC vide representation dated 27.02.2018 stated that the petitioner herein who is working as School Assistant, Zilla Parishad High School, Vanashalipuram, R.R.District and the State General Secretary of STU, TS, has participated in the meeting conducted with the contesting candidates by the Returning Officer, as an Election Agent on behalf of Sri A.N.V.Reddy. In the said letter it is also stated that the Nodal Officer for Model Code of Conduct and Additional Superintendent of Police, Vigilance Cell, GHMC has enquired into the matter and submitted his report on 28.02.2017 wherein it was informed that Sri Sadanandam Goud has attended the said meeting and singed and during the course of hearing admitted that he has attended the meeting on behalf of Sri

A.V.Narayana Reddy, a contesting candidate. After conducting enquiry, the Inquiry Officer submitted his report on 11.05.2017 wherein it is held that the charges framed against the petitioner were proved, as such the proceedings were issued withholding of two increments of pay with cumulative effect as per Sub-Rule (VI) of Rule 9 of CCA Rules, 1991.

7. The learned Assistant Government Pleader further submits that participation of the petitioner in the election meeting was evident from the report of the Additional Superintendent, GHMC, that he has violated the A.P.Civil Service (Conduct) Rules, 1954 and as the allegation was proved beyond doubt major punishment of withholding of two increments with cumulative effect was imposed against the petitioner and without availing the remedy of Revision to the Government the petitioner straight away filed the writ petition, and therefore requested to dismiss the petition.

8. After hearing both sides and upon perusing the records, it clearly shows that the respondents have not followed the procedure as contemplated under Rule-20 (4) of Telangana Civil Services (Classification, Control and Appeal), Rules, 1991. Rule-20-(4) of Telangana Civil Services (Classification, Control and Appeal), Rules, 1991, reads as follows:

“ The disciplinary authority shall deliver or cause to be delivered to the Government Servant a copy of the article of charge, the statement of imputations of misconduct or misbehavior and a list of documents and witnesses by which each article of charge is proposed to be sustained and copies of the said documents and statements of the said witnesses and shall require the Government Servant to submit within such time not exceeding 10 working days, a written statements of his defence and to state whether he deserves to be heard in person. If the charged officer deserves to be heard in person, personal appearance may be allowed before the disciplinary authority on such day and at such time not exceeding ten working ten days”

9. Admittedly the respondents in this case except issuing a Charge Memo under Annexure-I have not followed the procedure as contemplated under Rule-20 (4) of T.C.S (CCA) Rules, 1991. In view of the same the impugned order is liable to be set aside.

10. Accordingly, this Writ Petition is disposed of by setting aside the punishment order passed by the respondent No.3 vide Proceedings No.1791/A1/2017 dated 17.03.2017 and consequential orders passed by the respondent No.2 in RC.No.0827/B1/2021 dated 29.09.2021, and remanding back to the respondent No.3 to follow the procedure as contemplated under T.C.S (CCA) Rules, 1991 and pass appropriate orders as per law. There shall be no order as to costs.

11. Miscellaneous petitions, pending if any, shall stand closed.