
(2014) 09 AP CK 0092
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 2467 of 2005

K. Jayaraj

APPELLANT

Vs

The Executive Officer

RESPONDENT

Date of Decision : 11-09-2014

Acts Referred:

Citation : (2014) 09 AP CK 0092

Hon'ble Judges : L.N. Reddy, J;Challa Kodanda Ram, J

Bench : Division Bench

Advocate : R.K. Suri, Advocate for the Appellant; Deepak Bhattacharjee,
Advocate for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The petitioner in W.P. No. 10650 of 2004 filed this Writ Appeal feeling aggrieved by the dismissal thereof by the learned Single Judge through order dated 02.08.2005.

2. The appellant joined the services of the Cantonment Board, Secunderabad, in the year 1972, as Foreman, for the purpose of maintaining the vehicles owned by it. He was placed under suspension through order dated 28.11.2000 pending enquiry into certain allegations. Thereafter, a charge sheet was issued on 02.11.2002, wherein two charges were framed. The first was about purchase of lubricants for the vehicles, worth Rs. 2,18,97,084/- between 1990 and 1997 and the second was about incurring Rs. 45,00,000/- towards repairs. This was followed by departmental enquiry, and the Enquiry Officer submitted a report dated 28.04.2003 holding that the charges are proved. Taking the same into account, the disciplinary authority passed an order dated 27.05.2003 dismissing the appellant from service. The said order was challenged in the Writ Petition. The learned Single Judge dismissed the Writ Petition.

3. Sri. R.K. Suri, learned counsel for the appellant, submits that the findings recorded by the Enquiry Officer are based on no evidence and they are also

perverse. He contends that purchase of oil or any other material for the Cantonment Board involves the participation of officers of several Departments such as Accounts, Administration and the appellant alone was chosen in respect of the alleged irregularities. He submits that every item purchased was covered by bill and at no point of time, any objection was raised, particularly, during the general audit. He submits that the learned Single Judge did not appreciate the matter from the correct prospective and dismissed the Writ Petition.

4. Sri. Deepak Bhattacharjee, learned Standing Counsel for the first respondent, on the other hand, submits that the appellant did not dispute that he purchased oil, worth Rs. 2,18,97,084/-, that too only from one agency, just for maintenance of 37 vehicles. He contends that the appellant did not offer any explanation and when it was insisted that the bills be produced, he simply stated that all of them are missing from almirah. He submits that the Cantonment has an independent workshop for maintenance of the vehicles and despite that, a sum of about Rs. 45,00,000/- was incurred for repairs of the vehicles during 1991 to 1997 in the hands of the appellant.

5. The charges framed against the appellant are as under:

Article I:

Shri K. Jairaj had also obtained the pecuniary advantage in conspiracy with the partners of M/s. Ravinder Service Centre. In the matter of procurement of lubricants to the vehicles of Cantonment Board which resulted in loss of Rs. 204.47 lakhs to the Cantonment Board, Secunderabad and caused wrongful gain to himself and partners of M/s. Ravinder Service Centre.

Article II:

Shri K. Jairaj has sanctioned as Foreman, Cantonment Board during the period 1991 to 1997. While working as Foreman during the said period, Shri K. Jairaj has not shown his sincerity and honesty towards his duty and in violation of CCS Conduct Rules obtained undue pecuniary advantage in conspiracy with four private persons in the matter of repairs to vehicles of Cantonment Board with a view to cause wrongful loss to the tune of Rs. 44.92 lakhs to the Cantonment Board, Secunderabad and wrongful gain to himself and to four private persons.

6. It is a matter of record, that the Cantonment owns about 40 vehicles of different descriptions. While some are heavy vehicles such as trucks, others are light vehicles, like cars and jeeps. The purchase of lubricating oil for the vehicles used to be by the store keeper of the Cantonment. That procedure, however, was changed in the year 1991, conferring power in the Foreman to make purchase of oil. The fact that the lubricants purchased during 1991 to 1997 were to the tune of Rs. 2,18,97,084/- was noticed only in the year 1997, when a new Executive Officer took the charge. He has promptly put the appellant on notice and required him to explain the details not only the purchase of the oil but also, of the expenditure incurred for repairs of the vehicles. No explanation worth, its

name was forthcoming.

7. In the departmental enquiry, the appellant stated that he would defend the case by himself. Several questions were put to him in the course of enquiry. For example, he was asked about the maintainability of the vehicles and the accounts in relation thereto.

8. The answer was:

I've maintained vehicles properly and I've fulfilled my responsibility. I have not indented any excess oil. I have drawn as per the requirement. The Stock book is pertaining to draw only lubricants and separate accounts were maintained showing the daily lubricant put to the vehicles which I have maintained are found missing from my almirahs which I have noticed while handing over the charge after the lapse of three years of my going on sick leave and after handing over all the books to CBI and after the raid of CBI on my house after nine months. I am giving police complaint regarding tampering, breaking, opening the almirahs and boxes which were in my custody by breaking them as no action has been taken by Shri Ajay Kumar, CEO even after my complaint made to him stating that the almirahs, boxes were tampered and records were stolen by Shri R.S. Cheema and Health Superintendent who is officiating as Foreman, Workshop from last five and a half years.

9. It is a matter of common knowledge that the drivers of the vehicles are the best persons to know whether the change of oils for the concerned vehicles has become due. The appellant, however, ensured that the engine oil is changed for all the vehicles of the Cantonment, without knowledge of any driver whatever. The questioning in this behalf proceeded on the following lines.

20. Why did not you get the engine oil changed in front of the Drivers?

A. There are no such orders to put the Engine oil/lubricants in presence of the Drivers.

21. Generally, do the Drivers come to know that the Engine Oil has been changed?

A. The keys of the vehicles were in my custody and I used to change the oil/lubricants whenever due and generally the drivers never know about it.

22. Where are the used oil/lubricants kept?

A. We used to deposit them in Stores by bulk.

23. From the records, it is seen that the requirement of oil/lubricant have gone up by three to four times the requirement of the previous year. Why is it so?

A. I have drawn correctly as per the actual requirement please.

24. During the entire period under question how is it that the oil/lubricants were drawn from only one dealer i.e., M/s. Ravinder Service Centre?

A. They had been supplying at the time of my joining the Cantonment Board, so the then Store Keeper & I continued to purchase from them.

25. Did you maintain record of readings at which the oil/lubricants were changed?

A. No record was maintained regarding about 30 vehicles. I used to maintain the records in respect of five to six vehicles and these records were stolen from my Almirahs.

26. Do you/your people in the workshop made any entry regarding issue of oil/lubricants to the vehicles in the VDRA?

A. No. I think.

10. When this is the manner in which the appellant performed his duties, it is not difficult to imagine the misuse of funds of the Cantonment for making fiction purchases. Even an organization, which maintains about 1000 heavy vehicles, such as, certain regions of APSRTC, may not have purchased the engine oil worth two crores of rupees. It also needs to be kept in mind that during 1991 to 1997, the prices of engine oils were relatively less. Even if one goes by the present price structure, the fleet of the vehicles of the Cantonment may not have needed 1/10 of the amount utilized by the appellant.

11. As regards the repairs to the vehicles, the record discloses that the appellant never thought of utilizing the services of the workshop. On the other hand, the bills were maintained in such a way that they are less than Rs. 10,000/-, so that, they are within the discretion of the CEO. The Enquiry Officer made an observation to the effect that in respect of some vehicles, repair charges exceeded their total cost. This being the case, it is just un-understandable as to how the findings can be said to be not based upon no evidence, or to be perverse.

12. The learned counsel for the appellant made extensive arguments about the discrimination. It is, no doubt, true that the Enquiry Officer made an observation to the effect that several officers of the Cantonment are involved in the large-scale misuse of funds. As a matter of fact, he made an observation to the effect that action needs to be initiated separately against them, obviously because the procedure for initiating disciplinary action against such higher officials is different. The allegations against them were not subject matter of the proceedings initiated against the appellant.

13. The learned Standing Counsel for the first respondent stated that the Senior Officials of the Cantonment Board are mostly from Armed Forces and procedure prescribed for them needs to be followed and that the Ministry of Defence issued order dated 20.05.2003 proposing to initiate proceedings against the then Cantonment Executive Officer, by name, A.S. Rajagopal, who paved the way for direct purchase of the material by the Foreman i.e., the appellant herein. The two successive Executive Officers, by name, Prachur Goel and M.L. Rangay, were also sought to be proceeded against. Therefore, the ground of discrimination also fails.

14. The Writ Appeal is accordingly dismissed. There shall be no order as to costs.
15. The Miscellaneous Petitions filed in this Writ Appeal shall stand disposed of.