
(1999) 03 AP CK 0052

In the Andhra Pradesh High Court

Case No : Writ Petition No. 939 of 1999

Pramod Kumar T.

APPELLANT

Vs

Kendriya Vidyalaya Sangathan and Others

RESPONDENT

Date of Decision : 05-03-1999

Acts Referred:

Central Civil Services (Conduct) Rules, 1964 — Rule 3(1)

Citation : (1999) 2 ALT 357 : (1999) 1 APLJ 289 : (1999) 2 LLJ 680

Hon'ble Judges : S.V. Maruthi, J

Bench : Single Bench

Advocate : G.S. Rao, for the Appellant; Lakshmi Devi, for the Respondent

Final Decision : Allowed

Judgement

S.V. Maruthi, J.—This writ petition is filed challenging the order of the third respondent. The relevant portion of the impugned order dated December 28, 1998 reads as follows:

"Accordingly, the undersigned being the Disciplinary Authority proposes to recover an amount of Rs. 4125/- (Rupees four thousand one hundred and twenty five only) being the irregularly drawn House Rent Allowance and awards the penalty of reduction of pay by one stage in time scale of pay for a period of 2 years with effect from January 1, 1999 with further directions that Sri. T. Pramod Kumar will not earn increment of pay during the period of reduction and that on expiry of the period, the reduction will have the effect of postponing future increments, if any.

Now, therefore, the undersigned being the Disciplinary Authority in exercise of the powers conferred On him orders the recovery of Rs. 4125/- (Rupees four thousand one hundred and twenty five only) from Sri. T. Pramod Kumar in one lump sum and awards the penalty of reduction of pay by one stage from Rs. 6375/- to Rs. 6200/- in the time scales of Rs. 5500/ - 175 - 9000 w.e.f. January 1, 1999 for a period of 2 years. It is further directed that Sri T, Pramod Kumar

will not earn increments of pay during the period of reduction and that on the expiry of the period, the reduction will have the effect of postponing the future increments, if any".

2. The petitioner is a teacher in Kendriya Vidyalaya. He was working as such from August 29, 1988. He joined at Jindrah, Udhampur District in Jammu and Kashmir. He was transferred to K. V. S. at Nagrota in Jammu and Kashmir. From Nagrota he was transferred to K.V.S., Ramagundam, Andhra Pradesh. From Ramagundam he was transferred to Secunderabad. At present he is working at Secunderabad. At Nagrota he was staying along with his wife and son in a private rented house for which he is entitled to house rent allowance. On July 19, 1992, the Principal, K. V. S., Nagrota issued a memo dated July 18, 1992 alleging that he had falsified official documents regarding the residential address and unauthorisedly claimed house rent allowance and, therefore, he should refund the entire amount of Rs. 4295/-. The petitioner filed an explanation on July 23, 1992. On considering all the allegations, the Principal dropped the proceeding. While so, the Assistant Commissioner, K.V.S., Hyderabad region issued a memo dated June 6, 1997 with the same old allegations. The petitioner submitted the explanation on July 16, 1997 denying the charges. After holding an enquiry, the impugned order is passed. Aggrieved by the same, the present writ petition is filed.

3. The charge framed against the petitioner is that while working at K. V. S., Nagrota, Jammu and Kashmir during the period from December 23, 1989 to July 27, 1992 he claimed H.R.A., fraudulently submitting false declaration to the effect that he had been staying in a rented house violating Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.

4. The finding given by the Disciplinary Authority is that the H.R.A., drawn by the charged official for his stay at K. V. S., Nagrota except for the period from December 3, 1991 to April 30, 1992 is irregular and should be recovered. In other words, the finding is that the petitioner did not stay in a rented house but claimed house rent allowance from December 23, 1989 to December 3, 1991. The petitioner contends that he stayed from December 23, 1989 to December 2, 1991 at Channi Himat, Sector II, Jammu and from December 3, 1991 to April 30, 1992 at Vill Maralia, Miran Sahib (Jammu). In spite of producing the relevant evidence, the Disciplinary Authority merely relied on the verification certificate issued by the Sr. Superintendent of Police, Jammu stating that no person by name Sri T. Pramod Kumar, S/o Sri T.K. Suman Kumar was residing at Sector II, Channi Himat, Jammu during the period from December 23, 1989 to December 2, 1991 and holding that the petitioner is guilty of claiming house rent allowance without taking a house on rent. No reference is made to the certificates produced by the petitioner stating that he resided at Channi Himmat, Sector-II, Jammu as a tenant of Smt. Ratna Devi. Since, the relevant evidence on record was not considered, the order is vitiated.

5. I have gone through the impugned order and find that the impugned order

suffers from the infirmity of ignoring the relevant evidence on record. Therefore, the impugned order is set aside. However, it does not preclude the respondents from holding an enquiry if they are so advised after taking into account the two certificates produced by the petitioner viz., that he resided at Channi Himat, Sector II, Jammu as a tenant of Smt. Ratna Devi from December 23, 1989 to December 2, 1991 and after giving an opportunity of personal hearing to the petitioner.

6. The writ petition is accordingly allowed with costs. Advocates' fee is fixed at Rs. 500/-(Rupees five hundred only).