

(2017) 03 KAR CK 0182
In the Karnataka High Court
Case No : 32812 of 2013 (S-RES)

SRI M. NAGARAJU S/O LATE G. MUDDAIAH

APPELLANT

Vs

THE CANE DEVELOPMENT COMMISSIONER AND DIRECTOR,
SUGAR DIRECTORATE GOVERNMENT OF KARNATKA, & ORS.

RESPONDENT

Date of Decision : 09-03-2017

Acts Referred:

Citation : (2017) 03 KAR CK 0182

Hon'ble Judges : A.N. Venugopala Gowda

Bench : SINGLE BENCH

Advocate : V.B. SIDDARAMAIAH, J. PRAMOD

Final Decision : Allowed

Judgement

1. A charge sheet dated 04.11.2010 was served on the petitioner. The Enquiry Officer having held the domestic enquiry and submitted the report dated 14.12.2010, respondent No.3 being the Disciplinary Authority imposed the punishment of withholding of two increments and reduction in the pay scale on the petitioner vide order dated 01.06.2013 (Annexure-M). As the petitioner has attained the age of superannuation and ceases to be in employment of the respondent Nos.2 and 3, it is unnecessary to consider the grievance put forth as against Annexure-N, whereby the lien of the petitioner was changed from Electrical Section to Cultivation Section with effect from 29.04.2013.

2. Sri V.B. Siddaramaiah, learned advocate contended that the petitioner was not served with second show cause notice after the Enquiry Officer's report dated 14.12.2010 was received and hence there is breach of principles of natural justice. Learned counsel submitted that the order as at Annexure-M suffers from the same legal infirmity as was pointed out in the order passed on 21.02.2017 in W.P.No.32531/2013.

3. Sri J. Pramod, learned advocate for the respondent Nos.2 and 3 did not dispute the submission of Sri V.B. Siddaramaiah, with regard to non-service of

second show cause notice after the report of the Enquiry Officer holding the petitioner guilty was submitted and the decision was taken to impose the penalty vide Annexure-M.

4. The decision taken by the Disciplinary Authority to impose the punishment is arbitrary, as the petitioner was not put on notice with regard to the adverse findings entered by the Enquiry Officer. The decision arrived at by the Disciplinary Authority suffers from the same infirmity as was pointed out in the order dated 21.02.2017 passed in W.P.No.32531/2013.

5. Following the said order and for the reasons assigned therein, it is ordered as follows:

Petition is allowed and the order as at Annexure-M, whereby the petitioner was imposed with penalty is quashed. Liberty is reserved to respondent Nos.2 and 3 to serve show cause notice on the petitioner and grant two weeks time to submit the representation, if any. After expiry of the period, Disciplinary Authority may proceed further and take decision in accordance with law.

No costs.