

(1987) 02 SC CK 0105

In the Supreme Court Of India

Case No : Writ Petition No's. 2293-97 of 1982, 3798-3822 of 1982 and Writ Petition No's. 2581, 3089-3106, 3228-42, 3243-56, 3328-40, 3363-89, 3530, 3587-3601, 3708-12, 3838-3917, 4025, 4169, 4173-98, 4391-95, 4511-14, 4545-4617, 4969-84, 5020, 5041-44, 5046, 5134

State of Andhra Pradesh and Others

APPELLANT

Vs

R. Ch. Ramulu

RESPONDENT

Date of Decision : 11-02-1987

Acts Referred:

Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963 — Rule 15A(2), 19(2), 31(1)

Citation : (1987) 1 JT 754

Hon'ble Judges : K.N. Singh, J;A.P. Sen, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Special leave granted. Arguments (sic).

2. The short point involved in this appeal, is whether the Conservator of Forests exercising his powers of revision under Rule 15A(2) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963 was bound to follow the procedure presented under Rule 19(2) of the Rules. In this case, the District Forest Officer at the conclusion of a departmental enquiry against the Respondent held that the charges were not proved. He therefore exonerated the Respondent of the charges levelled against him and directed that the period of suspension shall be treated as on duty. Thereafter, the Conservator of Forests who is the appellate authority issued a notice under Rule 31(1)(a) read with Rule 15A(2) of the Rules requiring the Respondent to show cause why he should not be dismissed from service. In response thereto, the Respondent submitted his reply. The Conservator of Forests being satisfied on the material on record that the charges were proved, passed an order of dismissal of the Respondent from service. The Respondent preferred appeals to the Chief Conservator of Forests

and the State Government, but the appeals were dismissed. Thereafter the Respondent filed a representation-petition before the Andhra Pradesh Administrative Tribunal. The Tribunal by the impugned order while upholding the power of the Conservator Forests under Rule 15A(2) to reopen the case and issue the show cause notice, held that he had no power to pass any order for dismissal without following the procedure prescribed under Rule 19(2) i.e. affording the Respondent a fresh opportunity to defend his case.

3. After hearing learned Counsel for the parties, we are satisfied that the Tribunal was not right in holding that the Conservator of Forests while exercising his power of revision was bound to follow the procedure under Rule 19(2) and could not impose the punishment dismissal of the Respondent from service on the basis of the evident recorded by the Enquiry officer. The provision contained in Rule 15A(2) of Rules is as follows:

Where in any case a lower authority has imposed a penalty or exonerated a member of a service, it shall not debar a higher authority from exercising his power under these Rules in respect of the same case. The order of such higher authority shall supersede any other order passed by the lower authority in respect of the same case.

4. On a plain construction of Rule 15A(2) of the Rules, it is amply clear that the Conservator of Forests as the revisional authority has had the power to evaluate the evidence recorded by the Enquiry Officer and come to a different conclusion. On such reappraisal of the evidence, the Conservator of Forests came to the conclusion that the charges leveled against, the Respondent were proved and accordingly passed the impugned order of dismissal. It was not necessary for the Conservator of Forests to direct a de novo departmental enquiry as contemplated by Rule 19(2) of the Rules.

5. The result therefore is that the appeal succeeds and is allowed. The order passed by the Andhra Pradesh Administrative Tribunal is set aside and the order of the Conservator of Forests is restored with a slight modification. We feel that having regard to the fact that the act of misconduct relates to the year 1971, the state Government should reconsider the measure of punishment within, four months from today. No costs.