
(2013) 10 AP CK 0018
In the Andhra Pradesh High Court
Case No : Writ Petition No. 4855 of 2001

T. Ratnakar

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 01-10-2013

Acts Referred:

Citation : (2014) 5 ALD 379

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

Bench : Division Bench

Advocate : Abhinand Kumar Shavili, for the Appellant;

Final Decision : Allowed

Judgement

Challa Kodanda Ram, J.—In this Writ Petition, the petitioner has questioned the order dated 16.01.2001, passed by the A.P. Administrative Tribunal (in short "the Tribunal"), in O.A. No. 7388 of 1996. The O.A. was filed challenging the G.O.Ms. No. 1111, Transport, Roads & Buildings (S.I.-3) Department, dated 01.11.1996, through which punishment of stoppage of one increment with cumulative effect besides recovery of Rs. 1,09,236-15 ps., was imposed on the petitioner. The Tribunal dismissed the O.A. The petitioner was initially appointed as Draftsman Grade-III in Roads & Buildings Department on 07.12.19971 and subsequently he was promoted to the posts of Grade-II Draftsman and Assistant Engineer in the years 1974 and 1976 respectively. Since 16.12.1976 he has been working as Assistant Engineer and by 1996, he was working in the Office of Deputy Executive Engineer, Roads & Buildings Sub Division, Parkal, Warangal District. In relation to his work, in respect of Medical Buildings, Warangal, the Government has noticed certain irregularities and it has initiated disciplinary proceedings. The 1st respondent appointed one M. Bhavanarayanacharyulu, Superintending Engineer, R&B, as Enquiry Officer by issuing G.O.Ms. No. 469, dated 09.12.1985, to enquire into the allegations against the petitioner and two other officials i.e., Executive Engineer and Deputy Executive Engineer. The following charges were framed against the petitioner:

- 1) Violation of Chief Engineer's circular instructions containing in Memo No. 010/Roads/81, dated 20.01.1981 in preparation and submission of number of S.R. Estimates within one maintenance reach of Road in a year;
- 2) Providing widening of formation width under S.R. works in violation of Chief Engineer's Circular Memo No. 39697/BR(2)tal/80-5, dated 30.06.1980 and Memo No. T2/TAL/78-1, dated 29.08.1973 without prior specific approval of the Chief Engineer (R&B), Andhra Pradesh, Hyderabad;
- 3) Recording of false measurement of the sizes of M.S. grills and flats;
- 4) Preparation of estimates with main provision for earth work or carted earth;
- 5) Preparation of estimates with main provision for painting and distempering works adopting higher rates.

On receiving the charge memo, the petitioner submitted his explanation on 12.09.1986. After conducting enquiry, the Enquiry Officer had submitted a report vide letter No. PF/ No. 1/SE/OC/EO/86, dated 13.10.1986, holding that the third charge alone is proved. On receipt of a Memo dated 16.05.1987 from the 1st respondent, the petitioner had submitted his explanation on 24.06.1987. Subsequently, after two and half years, the petitioner received a memo No. 2557/S.I-3/8530, dated 07.11.1989 in which, punishment of stoppage of an increment with cumulative effect and recovery of Rs. 1,09,236.15 ps., were proposed. The said Memo was accompanied by the statement of findings of an enquiry by name K. Krishna Murthy, Chief engineer, who conducted enquiry against one K.V. Rama Rao, Executive Engineer (R&B), covered by G.O.Ms. No. 499, TR&B Department, dated 11.06.1987.

2. The petitioner submitted a representation dated 29.12.1989 to the respondents requesting to recall the show cause notice and to drop further action in that regard pointing out the discrepancy. However, the 1st respondent issued amendment to the memo dated 07.11.1989 to the effect that the words "Sri M. Bhavanarayanacharyulu, Superintending Engineer, R&B now Chief Engineer, R&B retired" occurring in paragraph-2 of the notice may be read as "Sri Krishna Murthy, Chief Engineer, R&B on deputation to Andhra Pradesh Housing Board". The contention of the petitioner was that amendment does not cure the defect, and he submitted a representation once again to the 1st respondent. However, the 1st respondent issued G.O.Ms. No. 1111, TR&B Department, dated 11.11.1996 imposing punishment.

3. Heard Sri Abhinand Kumar Shavili, learned counsel for the petitioner and the learned Government Pleader (Services-II) for the respondents.

4. As could be seen from the record, the main contention of the petitioner is that punishment was imposed on him basing on the report submitted by Enquiry Officer by name Sri K. Krishna Murthy, who was appointed vide G.O.Ms. No. 499, dated 11.06.1987 to conduct enquiry against one delinquent officer K. Rama Rao. This fact was admitted by the respondents in their counter affidavit filed

before the Tribunal in O.A. No. 7388 of 1996. Further, the Memo No. 2557/S.I-3/85-29, dated 07.11.1989 issued by the respondents, clearly goes to show that one M. Bhavanarayanacharyulu, was appointed as Enquiry Officer against the petitioner and basing on the enquiry report submitted by the said Enquiry Officer, the Government issued a show cause notice calling for the explanation of the petitioner for causing loss to the Government to the tune of Rs. 1,09,236-15 ps. Strangely enough, the respondents proposed punishment to the petitioner based on the Enquiry Report submitted by one Krishna Murthy, who did not conduct any enquiry against the petitioner at all. It was a clear case either of total non-application of mind or a clear error apparent on the face of the record. The Tribunal has also lost sight of this crucial aspect.

5. Further, the enquiry report submitted by Sri M. Bhavanarayanacharyulu, reveals that the petitioner was found not guilty for the first two charges, 4th charge was dropped. As regards, 5th charge, it was held that the petitioner cannot be personally made responsible. The petitioner was found guilty for third charge alone. There was gross negligence, if not caprice, on the part of the respondents, in relying on the Enquiry report submitted by Krishna Murthy, who was not the Enquiry Officer for the petitioner at all. At least when this serious error was pointed out, corrective steps ought to have been taken. The punishment imposed on the basis of such an arbitrary exercise cannot be sustained.

6. Therefore, the writ petition is allowed, setting aside the order dated 16.01.2001 passed by the A.P. Administrative Tribunal in O.A. No. 7388 of 1996, and quashing the G.O.Ms. No. 1111, Transport, Roads 8B Buildings (S.I-3) Department, dated 01.11.1996 issued by the 1st respondent. There shall be no order as to costs. Miscellaneous petitions pending, if any, in this writ petition shall stand dismissed.