

THE HON'BLE DR.JUSTICE K. MANMADHA RAO

WRIT PETITION (AT) NO.140 of 2021

ORDER:-

Earlier, this matter was filed before the erstwhile A.P. Administrative Tribunal, *vide* O.A.No.1823 of 2016. Thereafter, it was transferred to this Court and renumbered as Writ Petition.

2. Brief facts of the case, as averred in the writ petition, are as follows:

The petitioner is a resident of Chendavolu Village of Kadapa District. Pursuant to construction of Somasila Project, the land/house possessed by the family of the applicant has been acquired by the respondents, and accordingly, an Award was passed during the year 1993-94 and declared them as displaced persons.

Government issued G.O.Ms.No.98, I (Project Wing) Department, dated 15.04.1986 providing employment to the members of the displaced persons on certain conditions. The petitioner has acquired D.M.E. and B.A. qualifications. As per the above said G.O., the respondents have prepared the list of eligible persons for employment

and the petitioner's name was shown at Sl.No.141. The Selection Committee has examined the claim of the petitioner, including the qualifications and Award, and thereafter, he was appointed as Technical Assistant *vide* proceedings dated 29.10.2009. Subsequently, he was promoted as J.T.O. *vide* proceedings dated 13.09.2012. The petitioner is governed by the A.P. State and Subordinate Service Rules, C.C.A. Rules and also protection under Article 311 of the Constitution of India.

While so, the 1st respondent issued impugned proceedings dated 29.04.2016 directing the petitioner to show cause as to why he should not be discharged from service for producing the fake award, within seven days from the date of receipt of the notice. Aggrieved, he filed the present writ petition.

3. At the time of admission, the erstwhile Tribunal granted an interim suspension of the impugned show cause notice.

4. The 1st respondent filed a counter-affidavit stating that as per approved seniority list, the names of petitioner and other displaced persons were submitted to the

Government for approval, in terms of G.O.Ms.No.44, dated 31.3.1999, for providing employment to the displaced persons of Somasila Project, in terms of G.O.Ms.No.98, dated 15.4.1986. After receipt of the orders from the Government, 1st respondent has issued orders appointing the petitioner as Technical Assistant *vide* proceedings dated 29.10.2009. While so, the President, Displaced Persons Unemployees Welfare Association, Kadapa, has lodged a complaint against the petitioner, on the ground that the petitioner has produced fake certificates and Award for getting employment, and it was forwarded to the Special Deputy Collector, Land Acquisition, TGP Unit-I, Kadapa. On verification, the Special Deputy Collector informed vide letter dt.27.8.2014 that the proof of Award No.10/93-94, dt.31.3.94 and Award No.13/93-94, dt.4.4.94 are not genuine. After receipt of the verification report, the impugned show cause notice was issued to the petitioner.

5. Heard learned counsel for the petitioner as well as learned Government Pleader for Services-III. Perused the material on record.

6. Learned counsel for the petitioner submits that, before issuing the show cause notice, the 1st respondent has not followed the procedure, as contemplated under Rule 20 of A.P.C.S (CC & A) Rules, 1991. In the said notice, he has already indicated his mind for imposing the major penalty, which is contrary to the Rules.

7. On the other hand, learned Government Pleader for Services-III contended that, after getting verification report from the Special Deputy Collector, Land Acquisition, TGP Unit-I, Kadapa *vide* letter dt.27.8.2014 only, the 1st respondent has issued the impugned show cause notice to the petitioner. Instead of submitting reply, he has filed this writ petition.

8. As can be seen from the impugned show cause notice, without following the procedure laid down under Rule 20 of A.P.C.S (CC & A) Rules, 1991, the 1st respondent wants to impose the major penalty against the petitioner. He has indicated his mind in the show cause notice. For imposing major penalty, he has to follow Rule 20 of the said Rules in ***stricto sensu***. On this ground

alone, the impugned show cause notice is liable to be set-aside.

9. Having regard to the above facts and circumstances, the impugned show cause notice dated 29.04.2016 issued by the 1st respondent is set-aside, and the matter is remanded back to the 1st respondent for conducting the enquiry afresh, after affording an opportunity to the petitioner to put forth his case.

10. Accordingly, the Writ Petition is disposed of. No order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

Dr. K. MANMADHA RAO, J

Date: 01.12.2022

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