

THE HON'BLE DR.JUSTICE K. MANMADHA RAO

Writ Petition (AT) No.878 of 2021

ORDER:-

Earlier, this matter was filed before the erstwhile A.P. Administrative Tribunal, *vide* O.A.No.1777 of 2017. 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, while working as Panchayat Secretary (E.O.Grade-I), was placed under suspension by the 1st respondent *vide* proceedings dated 25.05.2011. The 1st respondent issued charge memo dated 17.05.2011 to the petitioner framing four charges against him to which, the petitioner submitted his explanation. Thereafter, the Enquiry Officer was appointed and after conducting the enquiry he submitted report on 05.01.2012 holding that the charges stood proved. A show cause notice dated 19.08.2013 was also issued to the petitioner and he submitted his explanation. After taking into consideration the report of the Enquiry Officer and explanation submitted by the petitioner, the 1st respondent imposed major penalty of removal from service against the petitioner, besides

recovery of Rs.3,32,000/- *vide* proceedings dated 10.04.2014. Aggrieved, he filed an appeal to the 2nd respondent and it was rejected *vide* Memo dated 18.08.2016. Hence, the Writ Petition.

3. The respondents filed counter-affidavit stating that the petitioner has committed financial irregularities and criminal proceedings were launched against him. He was arrested on 23.03.2011 and remanded to judicial custody for 13 days and the Commissioner, PR & RE, placed him under suspension *vide* proceedings dated 25.05.2011. Subsequently, charges were framed against the petitioner and the Enquiry Officer was appointed to conduct the regular enquiry into the matter. Though the petitioner has filed O.A.No.7673 of 2011 before the erstwhile Tribunal challenging order of suspension, it was dismissed. Since the charges framed against the petitioner are grave in nature and involved financial irregularities, penalty of removal from service, besides recovery of Rs.3,32,000/-, was imposed *vide* proceedings dated 10.04.2014. The appeal filed by the petitioner before the Government was also rejected. The action taken against the petitioner is as per Rules A.P.C.S (CC & A) Rules and the principles of natural justice are followed.

4. Heard Mr.K.R.Srinivas, learned counsel for the petitioner as well as learned Government Pleader for Services-IV. Perused the material on record.

5. Mr.K.R.Srinivas, learned counsel for the petitioner, submits that the 2nd respondent has not assigned reasons in rejecting the appeal of the petitioner. He further submits that the administrative orders should contain reasons, failing which, the orders are illegal, arbitrary and liable to be set-aside. Therefore, on the ground that there are no reasons given in rejecting the petitioner's appeal, the impugned order is liable to be set-aside. He also submits that though the petitioner has deposited an amount of Rs.3,32,000/- *vide* receipt dated 19.02.2015, the respondents have not reinstated the petitioner into service. Earlier, the petitioner also filed O.A.No.1351 of 2015 seeking revocation of the suspension order and it was disposed of on 03.10.2016 directing the respondents to consider him for reinstatement, in terms of G.O.Ms.No.526, dated 19.8.2008, but no orders have been passed and he was served with the order of removal, which is illegal and arbitrary.

6. On the other hand, the learned Government Pleader for Services-IV, appearing for the respondents, submits that the

petitioner has deposited the misappropriated amount of Rs.3,32,000/- only after passing the final orders in the disciplinary proceedings dated 10.04.2014. Since the punishment of removal from service was imposed against petitioner, reinstatement of the petitioner into service does not arise, as he has committed financial irregularities. The respondents have not violated C.C.A. Rules and they have strictly followed the principles of natural justice.

7. As can be seen from the impugned proceedings dated 18.08.2016, except stating that there are no new grounds to interfere with the orders of Commissioner, Panchayat Raj and Rural Development Office, the Appellate Authority has not assigned any reasons in rejecting the appeal of the petitioner. The Appellate Authority ought to have passed reasoned order while confirming the order of removal against the petitioner. On this ground alone, the order of the Appellate Authority is liable to be set-aside.

8. In ***Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others***¹ regarding maintainability of writ

¹) AIR 1999 SC 22 = MANU/SC/0664/1998

petition in the context of availability of alternative and efficacious remedy, the Apex Court held thus:

"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of Habeas Corpus, Mandamus, prohibition, Qua Warranto and Certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this court not to operate as a bar in at least three contingencies, namely, where the Writ Petition has been filed for the enforcement of any of the Fundamental rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged."

(emphasis supplied).

The instant case falls in one of the exceptions carved out by the Apex Court, the principles of natural justice is a casualty here.

9. Having regard to the above facts and circumstances, the impugned Memo.No.7918/Vig.III/A2/2015-2, dated 18.08.2016 issued by the Appellate Authority/2nd respondent, confirming the proceedings No.10112/CPR & RE/B1/2010, dated 10.04.2014 of the 1st respondent, is set-aside and the matter is remanded back to the 2nd respondent for passing reasoned order on the appeal

preferred by the petitioner, within a period of (08) eight weeks from the date of receipt of the order.

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: 23.12.2022

HS

THE HON'BLE DR.JUSTICE K. MANMADHA RAO

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