

THE HON'BLE DR. JUSTICE K. MANMADHA RAO

WRIT PETITION (AT) No.1008 OF 2021

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“.....to issue a Writ, Order or direction to declare the impugned orders passed by the 1st respondent in G.O.Ms.No.25, Environment, Forests, Science and Technology (For.III) Department dated 14.03.2017 for imposing penalty of 50% cut in pension permanently under Rule 9 of A.P. Revised Pension Rules, 1980 as illegal, arbitrary and violative of Articles 21 and 311(2) of the Constitution of India and consequently declare that the applicant is entitled for full pension with all retirement benefits with interest at the rate of 14% p.a. and pass such other orders....”

2. Heard Mr. P.V.Ramana, learned counsel for the petitioner; learned Government Pleader for Services-I for the respondents.

3. Brief facts of the case of the petitioner is that he initially appointed as Forester on 04.03.1976 and retired from service on 58 years on 31.07.2006 as Deputy Range Officer. While he was in service at Chittoor (West) Range he was kept under suspension on certain allegations and framed articles of charges dated 03.02.1998. The petitioner submitted his explanation on 21.04.1998 and denied the charges. Later the 2nd respondent framed articles of Charge on 06.05.2003 for which the petitioner submitted his detailed reply dated 06.01.2005. An enquiry was

initiated against the petitioner, the enquiry officer submitted his report. On receiving the same, the petitioner submitted objections dated 18.04.2007 and also the petitioner also submitted another representation dated 24.03.2008 requesting to pass orders on the enquiry in view of his financial crisis and for grant of full pension and other benefits. Instead of passing final order, a Show-cause notice was issued dated 14.11.2014 proposing 50% cut in pension permanently against the petitioner. The petitioner submitted his reply dated 21.02.2015. Without considering the objections, after lapse of two years, the impugned order in G.O.Ms.No.25, dated 14.03.2017 issued to the petitioner and imposed 50% cut in pension permanently, which is illegal and arbitrary. Hence the Writ Petition came to be filed.

4. *Per contra*, 1st respondent filed counter-affidavit denying all material allegations and mainly contended that while the petitioner worked as Forest Range Officer, Chittoor West Range from 24.04.1995 to 14.08.1997 he committed grave misconduct of submitting a false report with the connivance with other department people along with Forest Department namely Mr. P.V. Padmanabham and others, so as to help the 11 contractors for quarrying black granite within the Reserve Forest Area of Votivaripalle Village, Patrapalle Village and Kottalam Village of

Yadamari Mandal, Chittoor District. Based on false report, the Divisional Forest Officer, Chittoor West Division issued a No Objection Certificate and thereafter the Mandal Revenue Officer, issued No Objection Certificate to 11 applicants/ contractors for quarrying black granite in Sy.No. 228. Therefore the petitioner was initially served with a Charge Memo dated 03.02.1998 and initiated enquiry. The Enquiry Officer conducted enquiry and holding that the charges against the petitioner are proved. After careful examination of the issue, the Government issued show-cause notice on 14.11.2014. On the basis of enquiry report the Government issued G.O.Ms.No.25, dated 14.03.2017 imposing the penalty of 50% cut in pension permanently under rule 98 of A.P.Revised Pension Rules. Hence, requested to dismiss the writ petition.

5. During hearing, learned counsel for the reiterated the contents urged in the writ petition. Whereas learned Assistant Government Pleader for the respondents vehemently opposed to grant relief in favour of the petitioner as he was committed grave irregularities and misused the official powers while discharging his duties. Therefore the respondent authorities decided to cut 50% of pension on him.

6. Learned counsel for the petitioner placed reliance on the decisions of Hon'ble Supreme Court in the case of **“State of A.P Vs. N. Radhakishan”**¹ wherein it was held follows:

“19.....The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo without any fault on his part in delaying the proceedings. In considering whether delay has vitiated the disciplinary proceedings, the court has to consider the nature of charge, its complexity and on what account the delay has occurred. If the delay is unexplained, prejudice to the delinquent employee is writ large on the face of it. It could also be seen as to how much the disciplinary authority is serious in pursuing the charges against its employees. It is the basic principle of administrative justice that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path, he is to suffer a penalty prescribed.....”

Further, he relied on a decision of Hon'ble Supreme Court in **“P.V.Mahadevan Vs. Managing Director, T.N.Housing Board”**² wherein it was held at Paras 8 to 11, which reads as follows:

“.....There is no acceptable explanation on the side of the respondent explaining the inordinate delay in initiating departmental disciplinary proceedings. The stand taken by the respondent in the counter-affidavit is not convincing and is only an afterthought to give some explanation for the delay.
(Paras 8 to 10)

¹ (1998) 4 SCC 154

² (2005) 6 SCC 636

Under the circumstances, allowing the respondent to proceed further with the departmental proceedings at this distance of time will be very prejudicial to the appellant. Keeping a higher government official under charges of corruption officer concerned. The protracted disciplinary enquiry against a government employee, should, therefore, be avoided not only in the interests of the confidence in the minds of the government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by the department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer”.

Therefore, the charge memo issued against the appellant is quashed. The appellant will be entitled to all the retiral benefits in accordance with law.”

8. The learned counsel for the petitioner also placed reliance on the decisions of the Hon’ble Supreme Court in **“M.V.Bijilani Vs. Union of India”³** ; **“Managing Director, ECIL, Hyderabad and Others Vs. B. Karunakar and others⁴”** and **“Oryx Fisheries Private Limited Vs. Union of India and Others”⁵**; in the case of **“(Roop Singh NEGI Vs. Punjab National Bank and Others”⁶** and

³ 2006(5) SCC 88

⁴ (1993) 4 SCC 727

⁵ (2010) 13 SCC 427

⁶ (2009) 2 SCC 570

also in the case of ***“Oriental Bank of Commerce and others Vs. S.S.Sheokand and Another”***⁷.

9. Therefore, learned counsel for the petitioner would contend that the respondents framed charges on the petitioner and he submitted his explanation dated 21.04.1998 denying the charges. After long lapse of 7 years, the respondents issued revised articles of charges as similar to the earlier charges and an enquiry was initiated after lapse of one and half year. The petitioner also submitted his objections dated 18.04.2007 and he pleaded that he retired from service on 31.07.2006, therefore requesting to pass final orders on the enquiry report and submitted his representation dated 24.03.2008. Later after lapse of 4 years the matter was reassigned to two different commissioners vide proceedings dated 05.08.2008 and 31.02.2012 and finally assigned to another on 24.03.2012. Further it is contended that from the date of revised articles of charges dated 06.05.2003, after completing enquiry submitting report by the E.O dated 21.07.2006 against the Government entrusted the matter to the Commissioner of Enquiries after lapse of more than 6 years, which fact is silent in the counter-affidavit. Basing on the Enquiry report dated 18.06.2012, the petitioner submitted his objections dated 02.04.2013 and further after lapse of 1 year, 7 months show cause

⁷ (2014) 5 SCC 172

notice proposing 50% cut in pension on 14.11.2014 was issued. The petitioner also submitted his explanation dated 21.02.2015. Later on the respondent impugned orders were issued imposing penalty of 50% cut in pension of the petitioner after last of 2 years.

10. During the course of arguments, learned Government Pleader placed on record the Judgment of Hon'ble Division Bench of this Court in **"L. Venkateswarlu Vs. State of A.P"**⁸ wherein it was held as follows:

*"5.This Court after hearing both the learned counsel notices that there is sufficient strength is what is stated by the learned Government Pleader appearing for the respondents. The impugned order clearly shows that the learned single Judge considered the leading cases on the subject, including **Chaman Lal Goyal (Supra), P.D. Agrawal v State Bank of India**⁹; **Ministry of Defence v Prabhash Chandra Mirdha**¹⁰ etc. He has reproduced the relevant portions of the said judgments in the order and ultimately came to certain conclusions in para -35 of the impugned judgment. The learned single Judge also noticed that the proceedings were initiated against other officers also and an enquiry officer was already appointed with a direction to complete the enquiry within certain time. He also relied on the case law on the subject that charge sheet should not normally be quashed prior to the enquiry on the ground that the facts stated are erroneous by holding that the correctness of the falsity of the allegations/ charges are to be determined by the disciplinary authority only".*

⁸ W.P.No.702 of 2022, dated 29.09.2022

⁹ (2006) 8 SCC 776

¹⁰ (2012) 11 SCC 565

11. So also, learned Government Pleader placed reliance on the Judgment of this Court in W.P.No.11560 of 2021, dated 30.04.2022 and this Court elaborately discussed various case laws. But this Court viewed and considered the factors basing on the facts and circumstances in the said writ petition, which squarely applies to the facts of this Writ Petition.

12. This Court observed that there is abnormal delay in stage to stage proceedings initiated by the respondents on the petitioner. Since 1998 till 2015 and still final order is not yet passed. Further the explanation given in the counter-affidavit is not convincing and there is inordinate delay in concluding the subject matter. As could be seen from the record the respondents failed to conclude the proceedings within time frame and at the same time the respondent issued subsequent proceedings one after another to the petitioner and the petitioner also submitted various explanations. So far the respondents did not consider his explanation and failed to establish the fact under what circumstances the request of the petitioner is rejected in the impugned order itself.

13. Following the Judgments submitted by the learned Government Pleader for the respondents cited supra, having regard to the facts and circumstances of the case and following the case law as cited supra, this Court is inclined to dispose of the writ

petition, while granting liberty to petitioner to put forth his objections before the Enquiring Authority. On such submission, directed the Enquiring Authority to afford ample opportunity to the petitioner by considering his objections and pass appropriate reasoned order in accordance with law and conclude the enquiry proceedings, which already initiated against the petitioner, as expeditiously as possible, preferably within a period of three (03) months from the date of receipt of a copy of this order.

14. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

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

DR.K. MANMADHA RAO, J

Date: 23.11.2022

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