

B.Jaya Sree Vs State Of Telangana

Court: High Court For The State Of Telangana:: At Hyderabad

Date of Decision: Sept. 6, 2022

Acts Referred: Telangana Civil Services (Classification, Control And Appeal) Rules, 1991 â€” Rule 9, 10, 19, 20, 20(2), 21, 22

Hon'ble Judges: P. Madhavi Devi, J

Bench: Single Bench

Advocate: Avadesh Narayan Sanghi

Final Decision: Partly Allowed

Judgement

1. This Writ Petition has been filed by the petitioner seeking a Writ of Mandamus by declaring the action of the respondents in issuing Proceedings

No.VSII(2)/1301/2012, dt.07.12.2021 as illegal and arbitrary and consequently to direct the respondents to grant all consequential benefits including

arrears of increments, difference in salary and all other service benefits under Rule 20 of CS (CCA) Rules to the petitioner in the interest of justice

and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. Brief facts leading to the filing of this Writ Petition are that the petitioner was recruited as Junior Assistant in the year 1996 and thereafter, she was

promoted as Senior Assistant in 2004 and later as Tahsildar in the year 2011. It is submitted that on 06.06.2012, a charge memo was issued by

invoking Rule 20 of the CS (CCA) Rules and in the Annexures-II and III to the charge memo, the contents were mentioned as nil. It is submitted that

the respondents have thus issued the charge memo without any basis. The petitioner submits that she has submitted her explanation on 06.12.2012,

and on 11.08.2012, the respondents appointed an enquiry officer and after more than 9 years, suddenly vide proceedings dt.28.04.2021, an oral enquiry

was conducted by the Special Deputy Collector, Godavarikhani and the enquiry report was furnished on 28.04.2021. It is submitted that no procedure

was followed while conducting the departmental enquiry even though a charge memo was issued under Rule 20 of CS (CCA) Rules and no

documents were filed nor marked. The petitioner submits that the enquiry officer, though observed that there is no documentary evidence about

collusion of the petitioner with quarry lease holders in changing the sub-division to create the way to the leaseholders, held the charges partly proved

and on the basis of the same, the respondents have imposed a major punishment of stoppage of two annual grade increments with cumulative effect.

Challenging the same, the present Writ Petition is filed.

3. Learned counsel for the petitioner, Sri Avadesh Narayan Sanghi, submits that the order under challenge is totally without any application of mind

and is a non-speaking order. He submits that the charge memo has to be issued by the appointing/disciplinary authority, whereas in the case of the

petitioner, it has been initiated by the District Collector and therefore, the initiation of the proceedings itself is not proper and not in accordance with

CS (CCA) Rules. He further submits that there is an inordinate delay of 9 years in conducting the enquiry and that too, an oral enquiry and therefore,

the respondents have not followed the rules particularly Rule 20 of CS (CCA) Rules. Therefore, he seeks setting aside of the charge memo and all the

consequential proceedings thereafter.

4. Learned Special Government Pleader, Sri M.V. Rama Rao, appearing on behalf of the respondents, on the other hand, relies upon Rule 19 of the

Telangana Civil Services (Classification, Control and Appeal) Rules, 1991 (for short, the Rules), which prescribes the authority to institute

proceedings and as per Sub-Rule (1)(b) thereof, the Government or any other authority empowered by it by general or special order may direct a

disciplinary authority to institute disciplinary proceedings against any Government servant on whom that disciplinary authority is competent to impose,

under these rules, any of the penalties specified in Rule 9 or Rule 10. He refers to Point No.1 of the Executive Instruction thereunder issued in Memo

No.24313/Ser.C/2000, G.A. (Ser. C) Department, dt.26.07.2001, wherein clarifications have been given that the District Collectors are empowered to

institute disciplinary proceedings against district officials per se without going into the merits of the decision. He submitted that as per the procedure

laid down under Rule 22 of the Telangana CS (CCA) Rules 1991, in the case of minor penalty proceedings by issuing a charge memo or under Rule

20 in the case of major penalty proceedings by issuing a charge sheet, it is clarified that the rules provide for initiation of disciplinary action by issuing a

show-cause notice, obtaining explanation and sending the material to the Head of the Department or Government for taking further action. He further

submits that Rule 20 of the Rules prescribes for procedure for imposing major penalties and Sub-Rule (3) thereunder provides that where it is

proposed to hold an inquiry against a Government Servant under this Rule and Rule 21, the Disciplinary Authority or the Controlling Authority who is

not designated as Disciplinary Authority and who is subordinate to the Appointing Authority can draw up or cause to be drawn up the substance of the

imputations of misconduct or misbehaviour into definite and distinct articles of charge. Therefore, according to the learned Special Government

Pleader, the District Collector being the Controlling Authority of all the employees in the District is the Authority for issuing the Charge Memo to the

petitioner herein.

5. Having regard to the rival contentions and the material on record, it is noticed that in this case, the charge memo was issued by the District

Collector who is the Controlling Authority but not the Disciplinary Authority. However, the final orders of punishment have been passed by the

Appointing Authority/Disciplinary Authority. As per Rule 20 Sub-Rule (2) of the Rules, the Controlling Authority can draw up the charges and in view

thereof, this Court does not find any reason to hold that the initiation of the disciplinary proceedings is without jurisdiction.

6. However, as far as the merits of the order passed by the 1st respondent are concerned, it is noticed that it is a non-speaking order. Though the 1st

respondent has reproduced the articles of charge, the explanation of the petitioner and the report of the enquiry officer and the explanation submitted

by the Charged Officer in the enquiry report in the penultimate paragraph, has passed the order of punishment without giving any reasons for doing so.

7. The learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of Chairman, Disciplinary Authority,

Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney AIR 2009 SC 3276, wherein the Hon'ble Supreme Court has held that

unless reasons are disclosed, a person will not be able to know whether the authority has applied its mind or not and also giving of reasons minimises

the chances of arbitrariness and therefore, it is an essential requirement of rule of law that some reasons, at least in brief, must be disclosed in a

judicial or quasi-judicial order, even if it is an order of affirmation. The 1st respondent has acted in quasi-judicial capacity while passing the impugned

order and therefore, he is required to give his reasons for imposing the major punishment of stoppage of two annual grade increments with cumulative

effect.

8. In view thereof, this Court deems it fit and proper to set aside the impugned order dt.07.12.2021 and direct the 1st respondent to reconsider the

submissions of the petitioner and also the material on record and pass a speaking order thereon within a period of six weeks from the date of receipt

of a copy of this order and communicate the same to the petitioner.

9. The Writ Petition is accordingly partly allowed. No order as to costs.

10. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed.