

The Government Of Andhra Pradesh & Ors vs A. Venkata Rayudu on 31 October, 2006

Equivalent citations: AIRONLINE 2006 SC 544

Author: Markandey Katju

Bench: S.B. Sinha, Markandey Katju

CASE NO.:

Appeal (civil) 2302 of 2005

PETITIONER:

The Government of Andhra Pradesh & Ors.

RESPONDENT:

A. Venkata Rayudu

DATE OF JUDGMENT: 31/10/2006

BENCH:

S.B. Sinha & Markandey Katju

JUDGMENT:

J U D G M E N T MARKANDEY KATJU, J.

This appeal has been filed against the impugned judgment of the Division Bench of Andhra Pradesh High Court dated 17.11.2003 passed in Writ Petition No. 17676 of 2003.

Heard learned counsel for the parties and perused the records.

The respondent worked as General Manager of Andhra Pradesh Scheduled Tribes Cooperative Finance Corporation Limited (TRICOR), Hyderabad from 15.6.1998 to 13.10.1999. On the basis of the report submitted by the Managing Director dated 18.11.1999, the following charges were framed against him:

"Article No. 1:

That the said Dr. Venkata Raidu, while functioning as A.P. Scheduled Tribes Cooperative Finance Corporation Limited (TRICOR), A.P. Hyderabad and presently working as Deputy Secretary (Administration) at Gurukulam A.P., Hyderabad violated the Orders issued by the Government from time to time and despite the specific instructions of the Managing Director, TRICOR, A.P. Hyderabad issued in the year 1997 and in the year 1998 in connection with depositing of the funds of

TRICOR in various Cooperative/Private Banks.

Article No. 2 :

That during the aforesaid period and while functioning in the aforesaid office, the said Dr. Venkata Raidu, formerly worked as General Manager and presently working as General Manager, TRICOR and presently working as Deputy Secretary (Administration) at Gurukulam, A.P. Hyderabad though specific instructions were given by the Managing Director, TRICOR (when it was noticed) to withdraw the money deposited from the Cooperative Banks and any other non-Nationalized Banks, has failed to obey the instructions.

Article No. 3 :

That during the aforesaid period and while functioning in the aforesaid Office, the said Dr. Venkata Raidu formerly worked as General Manager, TRICOR and presently working as Deputy Secretary (Administration) at Gurukulam, A.P. Hyderabad has violated the instructions of Managing Director, TRICOR and failed to withdraw the Deposits made with Cooperative/Private Banks, and still an amount of Rs. 445.00 lakhs is due for realization from the Cooperative/Private Banks as per the details given below (as on 18.11.1999).

Sl. No.	Name of Cooperative/ Private Bank	Amount (Rs. in lakhs)
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1. The Jawahar Cooperative Urban Rs. 400.00 Bank Ltd.
2. The First City Cooperative Rs. 20.00 Urban Bank Ltd.
3. The Charminar Cooperative Rs. 25.00 Urban Bank Ltd.

Article No. 4 :

That during the aforesaid period and while functioning in the aforesaid Office, the said Dr. Venkata Raidu, formerly worked as General Manager, TRICOR and presently working as Deputy Secretary (Administration) at Gurukulam, A.P. Hyderabad, due to his in effecting action the TRICOR could not release the amounts due to the implementing Agencies and Beneficiaries in time and there is a loss sustained to the TRICOR thereby putting the Corporation as well as the Government in embarrassing situation".

Thereafter, an enquiry was conducted and basing on the enquiry report, the Commissioner, Tribal Welfare Department issued a show cause notice dated 27.3.2001 to which he submitted his explanation. Finally, the Government issued Orders in G.O. Ms. No. 100, dated 5.9.2002 dismissing him from service.

The tribunal observing that Charge Nos. 2 to 4 were not found to be proved by the Enquiry Officer, considered the matter with reference to Charge No. 1 and observed that Charge No. 1 though proved could not be said to be misconduct which could be held to be proved against the appellant. The tribunal also found that in case of misconduct committed by the employees jointly, the enquiry ought to have been conducted jointly as required under Rule 24(1) of A.P.C.S. (CCA) Rules).

The tribunal further noticed that the Enquiry Officer exceeded its powers by finding the appellant guilty of charge of negligence by enlarging the scope of enquiry which was also unwarranted. Observing infirmity, the tribunal found that the Order of dismissal was not sustainable and accordingly, it was set aside. Hence, this appeal As noticed from the narration of facts above, four Charges had been framed against the respondent, but he was found not guilty by the tribunal in connection with Charges Nos. 2 to 4. As regards Charge No. 1, the tribunal held that though Charge No. 1 is proved, it cannot be said to be misconduct by the appellant. Hence, the tribunal exonerated the respondent.

The High Court in paragraph 12 of the judgment observed thus:

" It is also to be noted that the so-called directions of G.Os issued by the Government on the subject were not even placed before the Enquiry Officer. It is on record that the delinquent Officer only renewed the deposits already made by his predecessors. Under those circumstances, the tribunal has categorically observed that the charge No. 1 cannot be held to be proved on the basis of the material available on record."

We respectfully agree with the view taken by the High Court. It is a settled principle of natural justice that if any material is sought to be used in an enquiry, then copies of that material should be supplied to the party against whom such enquiry is held. In Charge No. 1, what is mentioned is that the respondent violated the Orders issued by the Government. However, no details of these Orders have been mentioned in Charge No. 1. It is well settled that a charge-sheet should not be vague but should be specific. The authority should have mentioned the date of the G.O which is said to have been violated by the respondent, the number of that G.O, etc. but that was not done. Copies of the said G.Os or directions of the Government were not even placed before the Enquiry Officer. Hence, Charge No. 1 was not specific and hence no finding of guilt can be fixed on the basis of that Charge. Moreover, as the High Court has found, the respondent only renewed the deposit already made by his predecessor. Hence, we are of the opinion that the respondent cannot be found guilty for the offence charged.

Thus, there is no force in this appeal. The appeal is accordingly dismissed. There shall be no order as to costs.