

State of T. N

Vs

Thiru K. V. Perumal and Others

Civil Appeal No. 9229 of 1996

(B. P. Jeevan Reddy, S. C. Sen JJ)

16.07.1996

JUDGEMENT

B. P. JEEVAN REDDY, J.:-

1. Leave granted.

2. Heard the counsel for the parties. This appeal is preferred against the judgment of the Tamil Nadu State Administrative Tribunal allowing the Original Application filed by the respondent. The respondent - Thiru K. V. Perumal - was a Deputy Registrar of the Co-operative Societies under the Government of Tamil Nadu. He was suspended pending enquiry into certain grave charges which are set out in the memo of charges dated November 3, 1987. There are two charges and in support of each charge, supporting material and particulars are elaborately set out. The respondent did not furnish a reply to the memo of charges. By an application dated September 23, 1988, he asked for perusal of certain "records and files" which according to him were quite essential for the purpose of preparing the statement of defence by him. He seems to have addressed certain further representations to the same effect. On September 26, 1989, the Registrar of Co-operative Societies (who had served the memo charges and to whom the respondent had made representations for supply of documents) wrote to the respondent asking him to specify how the records asked for by him were relevant to the charges framed. He also stated that his duty is to supply only those documents which are relevant to the charges and not each and every document asked for by the respondent. It appears that the respondent did not comply with the said letter of the Registrar. The enquiry officer appointed by the Registrar sent notices to the respondent to attend the enquiry but the respondent declined to do so. The enquiry officer thereupon perused the records and submitted a report holding both the charges as established. A copy of the enquiry officer's report was communicated to the respondent who submitted a detailed representation. The Tamil Nadu Public Service Commission, which was consulted in the matter, recommended the removal of the respondent. On September 22, 1991 the respondent was served with orders removing him from the service. (As a matter of fact, he was to retire from service on September 30, 1991) A Review Petition filed by the respondent was rejected by the Government whereupon he approached the Tamil Nadu Tribunal by way of O.A. No. 1053 of 1992. The Tribunal allowed the respondent's O.A., set aside the order of removal and directed that the respondent be treated as on medical leave, to which he is eligible, during the period of suspension and that he shall also be entitled to all benefit under the Rules.

3. The Tribunal has allowed the O.A. on four grounds viz., (1) that the charges are vague; (2) that

the appointment of enquiry officer was itself illegal inasmuch as the person appointed as enquiry officer was himself a witness against the respondent; (3) the failure to supply the documents asked for by the respondent amounts to violation of the principles of natural justice and; (4) the charges levelled against the respondent cannot be said to have been established on the material before the enquiry officer/disciplinary authority.

4. After hearing the counsel for the parties we find that grounds 1, 2 and 4 are unsustainable in law and on facts of the case. We need not deal with grounds 1 and 2 inasmuch as Shri Venkatramani, learned counsel for the respondent did not seek to support to the said grounds. Be that as it may, we have perused the memo of charges and we do not find any vagueness in the charges. Similarly the second ground given by the Tribunal appears to be based upon a mistake as to the identity of the person appointed as the enquiry officer. So far as the fourth ground is concerned, it has been repeatedly held by this Court that it is not the province of the Tribunal to go into the truth or otherwise of the charges and that the Tribunal is not an appellate authority over the departmental authorities. Accordingly the Tribunal must be held to have exceeded its jurisdiction in entering upon a discussion whether the charges are established on the material available. The fourth ground also thus disappears. Now remains only the third ground viz., the non-furnishing of the documents asked for by the respondent. The Tribunal seems to be under the impression that the enquiry officer/disciplinary authority is bound to supply each and every document that may be asked for by the delinquent Officer/employee. It is wrong there. Their duty is only to supply relevant documents and not each and every document asked for by the delinquent officer/employee. In this case the respondent had asked for certain documents. The Registrar, to whom the request was made, called upon him to specify the relevance of each and every document asked for by him. It is not brought to our notice that the respondent did so. The Tribunal too has not gone into the question nor has it expressed any opinion whether the documents asked for were indeed relevant and whether their non-supply has prejudiced the respondent's case. The test to be applied in this behalf has been set out by this Court in *State Bank of Patiala v. S.K. Sharma*, 1996 (3) Scale 202 : (1996 AIR SCW 1740). It was the duty of the respondent to point out how each and every document was relevant to the charges or to the enquiry being held against him and whether and how their non supply has prejudiced his case. Equally, it is the duty of the Tribunal to record a finding whether any relevant documents were not supplied and whether such non-supply has prejudiced the defendant's case. Since this has not been done by the Tribunal in this matter, it has to go back for a rehearing.

5. The appeal is accordingly allowed, the order under appeal is set aside and the matter remitted to the Tribunal for a fresh disposal of the Original Application in accordance with law and in the light of the observations made in this judgment. It is obvious that the scope of the enquiry shall now be confined only to ground No.3 indicated hereinabove. There shall be no orders to costs. Appeal allowed.