

**THE HON'BLE SRI JUSTICE K.C.BHANU
AND**

THE HON'BLE MRS JUSTICE ANIS

-
WRIT PETITION No.3565 OF 2006

ORDER:- (per Hon'ble Sri Justice K.C.Bhanu)

This writ petition is filed challenging the order, dated 16.12.2005, in O.A.No.7040 of 2004 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, "the Tribunal").

2. Petitioner/applicant filed the aforementioned Original Application before the Tribunal to declare the action of the respondents in not considering and disposing of his representation, dated 21.7.2004, which was submitted by him to the respondents to allow him to complete the training as Police Constable for the purpose of appointment to the said post keeping in view of the judgment in O.A.No.3501 of 2002 of the Tribunal and also the law laid down by the Apex Court in a judgment reported in A.I.R.1994 SC 215 as illegal and arbitrary, and consequently, to direct the respondents to consider and dispose of the said representation forthwith.

3. The Tribunal, upon considering the material on record, dismissed the aforementioned Original Application. Challenging the same, the applicant filed the present writ petition.

4. Heard both sides.

5. The petitioner/applicant responded to the Notification issued to the post of Police Constable in the year 1998. He appeared for the written examination and he was selected and sent for training to Police Training College, Ananthapur. Pursuant thereto, he reported for undergoing nine months basic institutional training. The applicant

abstained himself from training for a period of 49 days. Hence, the applicant was discharged way back in the year 1998 itself. It is not in dispute that without conducting any enquiry, the petitioner was discharged by respondent No.2 vide order, dated 28.1.1999, which reads as follows:

*“Government of Andhra Pradesh
Police Department*

*D.O.No.327
No.L&O/E4/161/1999*

*Office of the
Commissioner of Police,
Hyderabad City.
Dated: 28-1-99.*

ORDER

*Sub: - CITY POLICE – Direct recruitment to the
post of Stipendary Trainee Cadet Civil
PC in the City Police – Orders of
discharge for unauthorized absence of
Sri K.Venkat Ram Reddy RPC 9321 –*

Reg.

*Ref:- 1. Head Office DO No.3661 dt.29-11-98.
2. His representation dt.27-1-99.
3. The principal PTC Ananthapur
Lr.Rc.No.1221/D2/98 dt.22-1-99.*

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*Sri K. Venkat Ram Reddy S/o. Sri K.Prabhakar Reddy
RPC 9321 was selected in this office D.O. first cited to the
post of Stipendary Trainee Cadet Civil PC Hyderabad City
Police. He reported for 9 months basic Institutional training at
Police Training College at Ananthapur on 1-12-98.*

*It was mentioned in the condition No.4 of the D.O. that
he is not eligible for any kind of leave during the training period
and as per condition No.7 he is liable for discharge from
training for unsatisfactory progress, work and indiscipline
during the training without any notice and without paying any
remuneration. It was also mentioned at condition No.9 of the
D.O. that if he discontinues the training for any reasons is
discharged for unsatisfactory training for misconduct, he is
liable to repay the stipend or remuneration paid to him in
addition to the cost of training on him.*

The Stipendary Trainee Cadet Civil PC appeared before me on 27-1-1999 and mentioned that he remained absent from the training from 10-12-98 on health grounds. It has also been reported by the Principal Police Training College, Ananthapur vide reference 3rd cited that the above trainee Cadet Civil PC remained absent from the training from 10-12-98. He was absent from the training programme for a period of 49 days upto 27-1-99. From the material placed before me, it is evident that he neither informed the Training College about his intention to remain absent from the training nor has he kept his whereabouts informed to the authorities of the training college.

It is evident from the records available that when he went to the Osmania General Hospital on 10-12-98 due to alleged illness, he was advised to take rest upto 31-1-1999. He produced two medical certificates issued by the R.M.O. Civil Asst. Surgeon Osmania General Hospital, Hyderabad. It is also clearly evident that he left the Training College without informing any officer on 10-12-98 and reached Hyderabad. If he was not really well at Ananthapur, he ought to have informed about his alleged illness to the Principal P.T.C. Ananthapur and sought instructions. Further, Ananthapur Town being the District Headquarters has a full fledged Government hospital and he should have taken treatment from the said Hospital instead of leaving Ananthapur and arriving Hyderabad. His action to leave the College keeping the authorities in dark and coming to the Hyderabad on some pretext and now coming-up with a plea that he was not well appears to be an after thought and speaks about his disinterest to continue in P.T.C. Training. Candidates having such indisciplined behaviour at the very beginning of their career can no longer be continued in the Police Department which is a disciplined organization.

Sri K.Venkat Ram Reddy S/o.Sri K.Prabhakar Reddy Stipendary Trainee Cadet Civil PC 9321 is, therefore, discharged with immediate effect.

As per condition No.9 of the D.O. 1st cited, he is informed that he has to repay the remuneration and cost of the training, details of which, will be informed to him separately. He may note that if he fails to repay the same action will be initiated for recovery of the said amount under Revenue Recovery Act.

*Dy. Commissioner of Police,
Administration & Appointing
Authority.*

*To
Sri K. Venkat Ram Reddy,
S/o. Sri K. Prabhakar Reddy RPC 9321
(Stipendary Trainee Cadet Civil PC)."*

From the above order, it is clear that it is not a simple case of discharge as unsatisfactory during the probation period. It is punitive in nature. When the discharge simplicitor of the petitioner is punitive, then a notice has to be given to him. Admittedly, such notice was not given to the petitioner before discharging him.

6. Learned counsel for the petitioner placed reliance on a decision reported in **State Bank of India and others v. Palak Modi and another**^[1] wherein it is held at para No.26 as under:

"There is a marked distinction between the concepts of satisfactory completion of probation and successful passing of the training/test held during or at the end of the period of probation, which are sine qua non for confirmation of a probationer and the Bank's right to punish a probationer for any defined misconduct, misbehaviour or misdemeanour. In a given case, the competent authority may, while deciding the issue of suitability of probationer to be confirmed, ignore the act(s) of misconduct and terminate his service without casting any aspersion or stigma which may adversely affect his future prospects but, if the misconduct/misdemeanour constitutes the basis of the final decision taken by the competent authority to dispense with the service of the probationer albeit by a non stigmatic order, the Court can lift the veil and declare that in the garb of termination simpliciter, the employer has punished the employee for an act of misconduct."

From the above decision, it is clear that when a order of discharge is in the nature of punitive, it will have an impact on the future employment of the candidates. The order of discharge clearly shows that it is punitive in nature. Therefore, it has to be set aside. Consequently, the

impugned order is liable to be set aside.

7. Accordingly, the Writ Petition is allowed setting aside the impugned order as well as the order of discharge. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE K.C.BHANU

JUSTICE ANIS

Date: 09.07.2015
AMD

**THE HON'BLE SRI JUSTICE K.C.BHANU
AND
THE HON'BLE MRS JUSTICE ANIS**

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WRIT PETITION No.3565 OF 2006

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DATE: 09.07.2015

AMD

[\[1\]](#) 2013 (1) SCJ 399