

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

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THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA

AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

-
WRIT PETITION No. 38818 OF 2014

DATE: 27.02.2015

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Between:

P. Ramana

... Petitioner

And

The State of Andhra Pradesh, rep., by its Principal Secretary,
Law & Legislature Department,
Hyderabad & others.

... Respondents

This Court made the following:

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THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No. 38818 of 2014

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ORDER: (Per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

This writ petition has been filed by an employee of a District Judicial Administration aggrieved by the two orders of punishment dated 11.06.2012 and 07.07.2012 passed by the learned District Judge, Visakhapatnam.

It appears, the first order under challenge relates to imposition of punishment by stoppage of one increment with cumulative effect. The second order of punishment was removal from service.

In the writ petition it has been specifically stated as far as the second order of punishment is concerned that without holding any enquiry or giving any chance of hearing the order of removal has been passed by the learned District Judge. This submission and averment in the writ petition has not been denied in the counter.

Even ignoring the statement and averment made in the writ petition and those of counter affidavit we find that impugned order of removal speaks for itself and we see that no enquiry was held and order of removal was passed taking into consideration the fact that in spite of imposition of the first punishment the petitioner did not rectify himself and again he has started absenting himself from attending duty. So, as a punitive measure, for the petitioner and as deterrent and exemplary

measure for other employees this order is passed.

We have heard the learned counsel for both the parties on this issue and we are of the view that the order of removal cannot stand for a single second, as the same has been passed without following due procedure. The relevant rule does not provide for dispensation of enquiry in any circumstances. If the petitioner has committed further misconduct in any manner whatsoever, regular disciplinary action should have been initiated by issuing charge sheet leveling imputation of charges and giving a chance to the petitioner to answer the same. We therefore cannot sustain this order and accordingly set aside the same. We direct the learned District Judge, Visakhapatnam, to reinstate the petitioner into service forthwith. However, it would be open for him, if so advised, to proceed with the matter in accordance with law against him for the subsequent misconduct of the petitioner.

As far as the first order of punishment i.e., stoppage of one increment is concerned, we think this order of punishment has been issued after holding an enquiry and appointing an enquiry officer, who has given a chance of hearing to the petitioner and found him guilty.

Considering the facts and circumstances of the case and the length of the period of absent, we think that the order of stoppage of one increment with cumulative effect is not shockingly disproportionate. We therefore do not want to interfere with the same.

The writ petition is allowed partly.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

K.J. SENGUPTA, CJ

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SANJAY KUMAR, J

Date: 27.02.2015

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