

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

WRIT PETITION No.18541 of 2015

Between:

T.J. Prabhakar Raju S/o. Late Ernest George,
Aged about 54 years, Occ: Assistant Superintendent
Posts, Head Quarters, O/o SPOs, Kakinada Division,
Kakinada, East Godavari District. Petitioner

And

The Union of India rep. by its Secretary,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi & 3 others Respondents

DATE OF JUDGMENT PRONOUNCED: 22.07.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | No |
| 2. Whether the copies of judgment may be marked to
Law Reporters/Journals | No |
| 3. Whether Their Ladyship/Lordship wish to see the
fair copy of the Judgment? | No |

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND
THE HON'BLE MRS. JUSTICE ANIS
WRIT PETITION No.18541 of 2015

ORDER: (Per Hon'ble Sri Justice Nooty Ramamohana Rao)

The petitioner herein, who is functioning as an Assistant Superintendent of Post Offices, challenges the correctness of the orders passed on 03.06.2015 by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad dismissing O.A.No.1294 of 2014 filed by him, challenging the correctness of the orders of the Chief Postmaster General, A.P. Circle dated 03.11.2014 re-allotting the petitioner to Hyderabad region from Visakhapatnam Region.

The facts are not in dispute to this extent. The petitioner has been shown as accused person in C.C.No107 of 2014 on the file of IV Judicial First Class Magistrate's Court at Visakhapatnam. Since he has failed to appear and attend the said criminal case, he has been arrested and remanded to judicial custody between 09.08.2014 to 16.08.2014. Subsequently, he was enlarged on bail. In view of the span of custody exceeding 48 hours duration, the petitioner is deemed to have been suspended with effect from 08.08.2014 in terms of Sub Rule 2 of Rule 10 of Central Civil Services (CCA) Rules, 1965. The said suspension order has been recalled and revoked on 03.11.2014. As a consequence thereto, the petitioner came to be reallocated from Visakhapatnam region to Hyderabad region.

When once a Government servant is confined to custody of duration of more than 48 hours, the fiction incorporated in Sub Rule 2 of Rule 10 of CCS (CCA) Rules would spring to life. Hence, the petitioner is properly considered and deemed to have been suspended from service from the date of his custody. It is thereafter the petitioner was granted bail and was enlarged by the Criminal Court. Based upon such an order, the 2nd respondent was required to consider the feasibility and desirability of continuing the petitioner under

suspension any further. A criminal case was launched by the complainant against the writ petitioner herein for the alleged offence said to have been committed under Section 138 Negotiable Instruments Act, 1881. Since the disputes between the complainant and the petitioner are private disputes, the 2nd respondent-Postmaster General thought it unnecessary to confine the petitioner herein to suspension any further as that would be imposing certain burdens on the Government of India, which will be required to pay certain amount of subsistence allowance without extracting any work in return from the employee concerned. In such circumstances, the Postmaster General has rightly considered that the writ petitioner shall be reinstated to duty. Upon such reinstatement, if he also considered it appropriate to shift the petitioner to a different region namely Hyderabad from Visakhapatnam region, no exception need be drawn thereto either. It would be an embarrassment for the employer to find one of its own employees working in the same place where he has suffered judicial custody. It is obviously to avoid this embarrassment the 2nd respondent has shifted the petitioner to a different region from Visakhapatnam. Such a factor is what is known as exigency of service, no exception need be drawn thereto. Hence, we find no merit in this writ petition.

Accordingly, the writ petition is dismissed.

Consequently, miscellaneous petitions, if any, pending shall also stand dismissed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

22.07.2015

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