

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 9446 OF 2015

ORDER:

The petitioner herein, who is working as a Junior Plant Attendant with the 1st respondent Corporation, has been placed under suspension, based upon a complaint lodged by one Ms. Battu Kasturi, D/o Poriya with the police that he has misconducted with her and that he has not lived up to the promise made by him to marry her. The police at Paloncha Town appears to have arrested the petitioner in connection with Crime No. 194 of 2014. In that view of the matter, since the petitioner has spent more than 48 hours in custody, the Chief Engineer of Kothagudem Thermal Power Station, the competent authority passed orders on 22.07.2014, placing him under suspension. When the petitioner submitted a detailed representation seeking to lift the suspension pending the criminal case, the Chief Engineer passed an order on 20.03.2015 informing him that he would continue to be under suspension and the final action would be taken based on the outcome of the prosecution initiated against him. Hence, this Writ Petition.

Sri Srinivas, learned counsel for the petitioner would submit that unfortunately for the petitioner, since he has fallen out of grace, Ms. Kasturi considered it appropriate to complain to the police, which was registered by Paloncha Town Police Station. The fact that the writ petitioner has not agreed to marry her cannot be a factor to be taken note of by the respondents and continue the petitioner under suspension for a prolonged period. The petitioner is employed only as a Junior Plant Attendant and he has been languishing all these months for one reason or the other. Prolonged suspension is not going to produce any improvement in the situation. Further, the learned counsel for the petitioner has brought to my notice that the police have already filed a charge sheet before the Court of the II Additional Judicial Magistrate of I Class at Kothagudem on 09.06.2014, after completing the necessary investigation into the matter. In that view of the matter, the petitioner will have no opportunity whatsoever to either influence the witnesses or tamper with the material gathered by the police. Therefore, no useful purpose would be served by continuing the petitioner under suspension for a prolonged period.

While it is true that an employee is liable to be placed under suspension, if he

has been confined to custody for a period exceeding 48 hours, but nonetheless, the facts and circumstances of the case, as they unfold, have got to be taken note of while reviewing the order of suspension.

In the instant case, the petitioner has been placed under suspension on 22.07.2014 by the Chief Engineer and when the petitioner prayed for review, the Chief Engineer, by his orders, dated 20.03.2015, declined to lift the suspension and preferred to continue the same. Now that the police have completed the investigation and also filed the charge sheet, perhaps, no useful purpose would be served in confining the petitioner to suspension. It would be a different matter if the petitioner has been alleged to have committed a heinous act, which, perhaps, would have produced some kind of hesitation on behalf of the employer to retain an employee facing such serious allegations from being reinstated. But the contents of the complaint as well as the charge sheet filed by the police, in the instant case, disclose that the complainant as well as the petitioner herein were stated to be in good terms for a while and it is subsequently their relationship has soured up. Perhaps, the complainant may have considered it appropriate to launch prosecution against the petitioner for his conduct if only their relationship was really good.

Therefore, having regard to the facts and circumstances prevailing in the matter and also in view of the fact that the prolonged suspension will not contribute, in any meaningful manner, to the productivity of the organization and the organization itself will be put to financial strain of paying up the subsistence allowance to the petitioner during the prolonged period of suspension without extracting a rupee's worth work in return and in view of the fact that the charge sheet has already been filed, while preserving liberty to the respondents to initiate disciplinary action against the petitioner, if they so choose and conclude it as early as is possible, the order of suspension, which has been continued by orders dated 20.03.2015, is directed to be reviewed and an appropriate decision including, reinstatement of the petitioner while subjecting him to disciplinary proceedings, if any may be taken and communicated to him within a maximum period of 15 days from the date of receipt of a copy of this order.

With this, the Writ Petition stands disposed of, after hearing Sri Resu Mahender Reddy, learned Standing Counsel for the respondents. No costs.

Consequently, the miscellaneous applications, if any shall also stand disposed of.

NOOTY RAMAMOHANA RAO, J

15th April 2015

Issue CC in a week

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