

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

and

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.3779 of 2015

ORDER: (per RR, J)

This writ petition is preferred against the order passed by the Andhra Pradesh Administrative Tribunal, Hyderabad in O.A.No.7055 of 2014 dated 31.12.2014. The petitioner herein is the applicant in O.A. No.7055 of 2014. Crime No.287 of 2014 was registered against him at Ongole Taluq Police Station for offences punishable under Sections 120B, 409, 420, 477-A read with Section 34 IPC. The petitioner herein is the third accused in Crime No.287 of 2014. The allegation, in the FIR, is that A.2 to A.10 (including the petitioner), who were all account holders in the Prakasam District Cooperative Central Bank Limited, had, in collusion with the first accused (jewellery appraiser) and A.11 (the then Bank Manager), obtained loans by pledging spurious gold ornaments of less weight; and they had misappropriated the loan amount of Rs.44,99,261/- by cheating the bank. By proceedings dated 11.07.2014, the petitioner was placed under suspension as he was kept in prison for more than 48 hours in connection with the aforesaid criminal

proceedings.

Questioning the order of suspension, the petitioner herein invoked the jurisdiction of the Tribunal. The Tribunal dismissed the O.A. holding that mere obtaining bail in the criminal case cannot be a ground to set aside the order of suspension, more so the allegation was that he had cheated a scheduled bank, and had misappropriated public funds from the bank. Aggrieved by the order of the Tribunal, the petitioner has invoked the jurisdiction of this Court.

Sri P.Nagendra Reddy, learned counsel for the petitioner, would submit that the allegations levelled against the petitioner are not connected with his official duties; it is only if he is accused in a criminal case, in connection with the duties discharged by him, can he be placed under suspension; and in any event, since the order of suspension was passed more than six months ago on 11.07.2014, the order necessitates being reviewed.

Rule 8(2)(a) of the Andhra Pradesh Civil Services (Classification, Control and appeal) Rules, 1991 stipulates that the Government servant shall be deemed to have been placed under suspension, by an order of the authority competent to place him under suspension, with effect from the date of his detention, if he is detained in

custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours. Rule 8(2)(a) creates a legal fiction and, when a Government servant is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours, he is deemed to be under suspension.

In the present case, the petitioner was detained in custody, in connection with Crime No.287 of 2014, for a period exceeding forty-eight hours. The legal fiction created by Rule 8(2)(a) is not confined only when a Government servant is detained in connection with an offence involving discharge of his official duties, but also operates whenever the Government servant is detained for a period exceeding forty-eight hours, whether on a criminal charge or otherwise. In the present case the petitioner has been detained in custody, for a period exceeding forty-eight hours, for the serious criminal offence of cheating and misappropriation of public funds. The contention that Rule 8(2)(a) is inapplicable to cases where the criminal charge, against the Government Servant, is otherwise than in the course of discharge of his public duties, does not merit acceptance.

Para 3(i) of the G.O.Ms.No.86 dated 08.03.1994 requires the order of suspension, passed against a Government Servant, to be reviewed at the end of every six months. Under para 3(ii), the appropriate reviewing

authority is required to take a decision regarding continuance, of the employee concerned, under suspension with reference to the nature of the charges. Whether the petitioner should be continued under suspension, or whether his suspension should be revoked, are all matters for the competent authority to consider. As G.O.Ms.No.86, GAD, dated 08.03.1994 requires the exercise of review to be undertaken at the end of every six months, ends of justice would be met if the competent authority is directed to review the petitioner's case and communicate his decision, whether or not to continue the order of suspension, to the petitioner herein within four weeks from the date of receipt of a copy of this order.

The writ petition stands disposed of accordingly. No costs.

RAMESH RANGANATHAN, J

23rd FEBRUARY, 2015.

M.SATYANARAYANA MURTHY, J

kvni