

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 6415 OF 2015

ORDER:

The petitioner, who was employed as an Inspector of the Railway Protection Force, sought for a writ of mandamus for declaring the proceedings, dated 16.02.2015 issued by the 2nd respondent Senior Divisional Security Commissioner, Vijayawada, initiating disciplinary proceedings against him, in terms of and in accordance with the Railway Protection Force Rules, 1987, as illegal.

It is alleged against the petitioner that on 26.11.2014 and 27.11.2014, he has demanded an amount of Rs.5,000/- as illegal gratification from the Manager of the vehicles parking stand at Anakapalle Railway Station for not booking any case against him and accepted the said amount from him on 28.11.2014. Hence, for making a demand and accepting illegal gratification, he is sought to be proceeded against now.

Learned counsel for the petitioner Sri T. Prasanna Kumar would submit that prosecution was already launched by registering Crime No. 14(A)/2014 against the petitioner by the CBI, Visakhapatnam on 28.11.2014 under Section 7 of the Prevention of Corruption Act, 1988 and therefore, the petitioner is sought to be penalized for the same misconduct twice all over.

I am afraid, this contention lacks any merit. The particular conduct exhibited by a public servant may have breached the Code of Discipline and Conduct Rules framed by the employer and may have also attracted simultaneously an element of an offence. Accepting illegal gratification is in breach of the Code of Discipline and Conduct Rules framed by the employer, namely the Railway Protection Force. Incidentally, the Prevention of Corruption Act, 1988 has also recognized making a demand and accepting illegal gratification as an offence. Therefore, the conduct of the petitioner has given rise for two different sets of actions to be initiated against him one of which has got

the civil consequences to flow there from and the other penal consequences including imprisonment. Therefore, the conduct can fall in two separate segments, for which, separate actions can be initiated. Hence, I have no hesitation to reject this Writ Petition and accordingly, it is dismissed at the admission stage. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

13th March 2015

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