

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 4163 of 2016

ORDER: (*Per VRS,J*)

The Union of India has come up with the present writ petition, challenging a final order passed by the Central Administrative Tribunal, Hyderabad.

2. Heard Mr. B. Narayana Reddy, learned Assistant Solicitor General, appearing for the petitioners, and Mr. M. Venkanna, learned counsel for the 1st respondent.

3. While the 1st respondent was working as Postal Assistant in Bodhan Sub Post Office, he was trapped by the Officials of CBI on 03.01.2014, while allegedly accepting illegal gratification from a candidate, in connection with the appointment of Branch Post Master. Consequently, he was placed under suspension.

4. It appears that the CBI filed a final report in March, 2014 against the 1st respondent herein before the Principal Special Judge for CBI Cases, Hyderabad, for alleged offences under Sections 120B IPC, Sections 7 and 13(2) read with 13(1)(d) of the Prevention of

Corruption Act, 1988. It appears that the same has been taken on file and numbered as C.C.No.12 of 2014. But, the trial is yet to begin.

5. In the meantime, the petitioners issued a charge memo, dated 25.02.2015, in terms of Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. Therefore, the 1st respondent filed an application in O.A.No.524 of 2015 on the file of the Central Administrative Tribunal, Hyderabad. Even at the stage of admission, the Tribunal allowed the application and directed the Department to put on hold the disciplinary proceedings, until the conclusion of the criminal case. Aggrieved by the same, the Union of India is before us.

6. The primary grievance of the Union of India that the application had been allowed by the Tribunal even at the admission stage without notice, appears to be justified. In cases of this nature, the Tribunal cannot allow an application at the admission stage, however strong the facts are. Therefore, under normal circumstances, we are obliged to set aside the order and send it back to the Tribunal for a fresh hearing.

7. But, the above option appears to be a possibility that will only lead to an empty formality. The reason is that the very trap and the allegation of demand and acceptance of illegal gratification form the subject matter of the criminal proceedings as well as the departmental

proceedings. This can be demonstrated by placing in a tabular column, the final report filed by the CBI and Article-1 of the charges framed in the departmental proceedings, as follows:

Charge framed in criminal proceedings	Charge framed in departmental proceedings
Investigation revealed that the accused persons A.1 and A.2 being Public Servants had criminally conspired together and in furtherance to their criminal conspiracy A.1 Narasimha Lingam demanded and accepted an illegal gratification of Rs.15,000/- from the complaint for ensuring job to his daughter Ms. N. Jyothsna, without creating any problem in her selection to the post of Branch Post Master, Bommandevpalli, for which she has applied and became eligible for the post.	Sri S. Narasimha Lingam, PA Armour HO (U/s) while working as PA Bodhan LSG SO during the period from 27.06.2011 f/n to 03.01.2014, during deputation as SPM Mirzaour SO, pursued the matter of selection of GDS BPM, Bommandevpalli BO a/w Mirzapur SO with Sri Neela Gangadhar, GDS MD Mirzapur SO whose daughter Kum. Neela Jyothsna has applied to the post of GDS BPM, Bommandevpalli BO a/w Mirzapur SO and demanded Rs.30,000/- as bribe in connection with BPM appointment through D.Srihari, ASP (Hqrs), O/o SSPOs, Nizamabad Division. Said Sri S.Narasimha Lingam, while working as PA Bodhan LSG SO was trapped by CBI authorities and caught red handed on 03.01.2014 at Bodhan, while accepting Rs.15,000/- from Sri N.Gangadhar, GDS MD Mirzapur SO. Therefore, it is alleged that said Sri S.Narasimha Lingam, PA Armour HO (U/S) while working as PA Bodhan LSG SO accepted bribe Rs.15,000/- on 03.01.2014 from Sri N.Gangadhar, GDS MD, Mirzapur SO in connection with BPM appointment of Bommandevpalli BO a/w Mirzapur SO, failed to maintain absolute integrity and acted in a manner of unbecoming a Government Servant as required of him vide Rule 3(1)(ii) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.

8. The charges in both the proceedings, the witnesses proposed to be examined, and the evidence before both the forums, are exactly the same. Therefore, despite the fact that we do not approve of the manner in which the application was allowed by the Tribunal, the conclusion reached by the Tribunal cannot be interfered with.

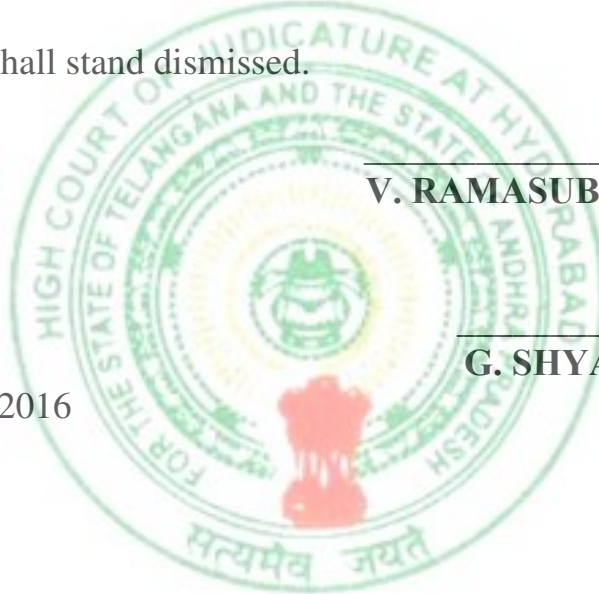
9. Therefore, the Writ Petition is dismissed. There shall be no order as to costs.

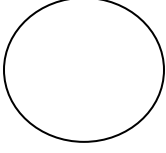
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

18th October, 2016
cbs





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