

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA
REDDY

AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.6204 of 2016

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26.02.2016

Between:

The State of Andhra Pradesh,
represented by its Principal Secretary,
Home Department, Hyderabad and another

..Petitioners

And

S.Trilokanatha Reddy and another

..Respondents

Counsel for the petitioners: Government Pleader for Services (AP)

Counsel for the respondents: --

The Court made the following:

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ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for a *certiorari* to quash the order, dated 14.08.2015, in O.A.No.4691 of 2015 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad.

2. In the view we are proposing to take, it is not necessary to record the facts in detail. It will suffice to note that respondent No.1 was allegedly involved in a criminal case for the offences under Sections 147, 307 and 506 read with Section 149 I.P.C. As he has not completed his probation as Police Constable (Armed Reserve), petitioner No.2 has issued a show cause notice, dated 31.07.2015, wherein respondent No.1 was called upon to show cause why his probation shall not be terminated and he shall not be discharged from service for his unsatisfactory performance, conduct and character, during the period of probation. It is also alleged in the said show cause notice as under:

“It is to inform you that you are involved as accused in Cr.No.169/2012 u/s 147, 307, 506 r/w 149 I.P.C. of Chinna Chowk U/G PS and caused grave reprehensible criminal misconduct under sub rule (2) of Rule 8 of APCS (CC&A) Rules, 1991.”

Feeling aggrieved by the said show cause notice, respondent No.1 filed the aforementioned O.A. with the plea that as criminal misconduct on his part has been alleged, the petitioners cannot discharge him otherwise than by holding a full fledged departmental enquiry. This plea was found acceptance with the Tribunal and it has, accordingly, allowed the O.A., by order, dated 14.08.2015. In para 5 of its order, the Tribunal held as under:

“In view of the above circumstances, as the impugned Show Cause Notice C.No.A10/2001/2014, dated 31.07.2015, is ex-facie illegal, it is set-aside. The respondents are at liberty to conduct a detailed enquiry providing an opportunity

to the applicant and pass appropriate orders, as per rules and on merits. Accordingly, the O.A. is allowed at the stage of admission. No costs.”

3. The learned Government Pleader for Services (AP) appearing for the petitioners has submitted that indeed as far back as 17.10.2012, a memorandum of charge was issued by petitioner No.2, a full-fledged enquiry was held and charges were proved against respondent No.1, *vide* minutes, dated 13.03.2013, followed by a memo, dated 15.03.2013, to which the said respondent has submitted a detailed explanation, dated 28.03.2013. She has further submitted that the Tribunal has not taken these facts into consideration and proceeded on the premise that the later show cause notice, dated 31.07.2015, issued by petitioner No.2 was not preceded by an enquiry.

4. From the facts brought out on record, we find that the petitioners have followed a strange procedure in the instant case. On finding that respondent No.1 was involved in a criminal case, a charge memo was issued by petitioner No.2 on 17.10.2012. Admittedly, the procedure of departmental enquiry has been initiated by holding a full-fledged enquiry and in due culmination thereof, a memo calling for explanation of respondent No.1 was also issued, to which respondent No.1 has submitted his explanation.

5. Abandoning the above line of action, petitioner No.2 has embarked upon a fresh line of action by issuing a fresh show cause notice, dated 31.07.2015, in purported exercise of his power under Rule 17(a) (ii) of the Andhra Pradesh State and Subordinate Service Rules, 1996. In our opinion, as the probation of respondent No.1 is sought to be terminated by imputing criminal misconduct, the petitioners are bound to hold a full fledged enquiry before taking a decision as to whether respondent No.1 shall be discharged or not. Though the Tribunal has not discussed the abovementioned facts, it has rightly concluded that respondent No.1 cannot be discharged

without an enquiry and it has left liberty with the petitioners to hold such an enquiry.

6. Since petitioner No.2 has already held enquiry, which was followed by a memo, dated 15.03.2013, and respondent No.1's explanation, dated 28.03.2013, the petitioners are permitted to resume further action from the stage where it was stopped.

7. Subject to the above observations, the Writ Petition is disposed of.

8. As a sequel to disposal of the writ petition, W.P.M.P.No.7891 of 2016 filed by the petitioners for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAISWAL, J

26th February, 2016
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