

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Petition No.23413 of 2010

ORDER: *(Per Hon'ble Sri Justice V.Ramasubramanian)*

Aggrieved by the order of the Andhra Pradesh Administrative Tribunal at Hyderabad, setting aside the major penalty in total, the State has come up with the present writ petition.

2) Heard the learned Government Pleader for Services-I (AP) and Mr. V.Mallik, learned counsel for the 1st respondent.

3) The only charge framed against the 1st respondent in the disciplinary proceedings was as follows:

“Sri L.S.Naidu s/o L.Appala Naidu, native of Vennalapalem (V) Parwada Mandal, Visakhapatnam was enlisted as ARPC on 18.08.1990. While working in HQ. Paltoon, City Armed Reserve on attachment from VIII Platoon of City Armed Reserve, he went on Medical leave from 16.10.2000 to 06.11.2000. On 16.10.2000 he left the head quarters without permission and went to Vennalapalem (V) of Parwada Mandal.”

4) Though the charge memo was issued under Rule 20 of A.P. Civil Services (Classification, Control and Appeal) Rules, 1991 with four annexures; the first containing the article of charge; the second containing the imputations of misconduct; the third containing list of witnesses and the fourth containing list of documents, no enquiry appears to have been conducted. After obtaining the written statement of defence from the 1st respondent, the Commissioner of Police imposed a major penalty of

reduction in time scale of pay by two stages for two years with cumulative effect. This was completely contrary to the procedure established by law.

5) If the order of penalty is to be set aside by the Tribunal, the matter should be sent back to the superior authority. However, what the Tribunal did was to record a finding that going out of station after availing medical leave, without the prior permission, was not misconduct. This finding is not in tune with statutory rule. Therefore, the order of the Tribunal is liable to be set aside.

6) Another interesting aspect is that there was no charge against the 1st respondent, at least in the charge memo dated 20.09.2002 to the effect that he was involved in a criminal case. However, the Tribunal took a clue from the order of penalty and set aside a non-existent charge. This also cannot be approved.

7) Therefore, the Writ Petition is allowed, the order of the Tribunal is modified to the extent that the order of penalty imposed by the 3rd respondent is liable to be set aside. However, the matter is remitted back to the respondents for a full-fledged enquiry in terms of Rule 20 of A.P. Civil Services (CC&A) Rules, 1991. No costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

V. RAMASUBRAMANIAN, J

U. DURGA PRASAD RAO, J

Date: 06.12.2016
Murthy