

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.23199 of 2015

Order: (per V.Ramasubramanian, J.)

Aggrieved by the order of the Andhra Pradesh Administrative Tribunal, at Hyderabad, quashing the charge memo, the State has come up with the above writ petition.

2. Heard the learned Government Pleader for Services-I (Andhra Pradesh) and Mr. P.Nagendra Reddy, learned counsel for the 1st respondent.

3. The 1st respondent herein was issued with a charge memo dated 07-6-2010, when he was working as Forest Range Officer. Challenging the charge memo, the 1st respondent filed an application in O.A.No.7740 of 2010. At the time of admission of the original application, the Tribunal granted stay of further proceedings. Eventually the Tribunal allowed the application by an order dated 25-4-2013. In the interregnum, the 1st respondent reached superannuation and has been permitted to retire.

4. The learned Government Pleader is, on first principle, right in contending that the Tribunal is not entitled to interfere with a charge memo. Allowing a disciplinary enquiry to go on is the rule and interference at the stage of charge memo is an exception. Therefore, we have to see whether the case on hand falls within the exception or not.

5. Two charges were framed against the 1st respondent which read as follows:

“Article of Charge – I: That he has exhibited gross neglect of duty in lodging a police complaint against the Divisional Forest Officer, Wildlife Management, Atmakur before the Station House Officer, Atmakur on 31.10.2009 without obtaining permission from the competent authority by violated conduct rules.

Article of Charge – II: That he has exhibited gross neglect of duty and disobedience of the superior officer instructions by not transferring the lift irrigation case file to the Forest Range Officer, Bairluty for regular enquiry.”

6. Copies of the complaint given by the 1st respondent to the Station House Officer, discloses two things, namely (a) that he received a phone call from an unknown person in his mobile phone on 31-10-2009 threatening him with dire consequences for taking action against a contractor and (b) that the copies of the complaint given by the 1st respondent to the Station House Officer were also sent to the Principal Chief Conservator of Forests and Chief Conservator of Forests.

7. Therefore, it is not as though the 1st respondent shirked his responsibility, he actually made this complaint to the Head of the Department as well as superior officers.

8. If the 1st respondent had been prudent, he would have simply given a brief complaint to the police that he received a threatening call. If the 1st respondent had not mentioned the name of his superior (Divisional Forest Officer) as a suspect, then the 1st charge could not have been

maintained at all. But that does not advance the case of the State, for the simple reason that pursuant to the complaint lodged by the 1st respondent, the Police would have taken a statement under Section 161 of the Code. In the course of such a statement, the 1st respondent was free, nay, obliged to disclose the name of the person whom he suspected.

9. When a Government Servant states that he received a threatening call for performing his statutory duties and lawful duties, it is for the Department to protect such a person and not proceed against him departmentally.

10. Therefore, as pointed out by the Supreme Court in *Ram Lakhan Singh v. State Government of Uttar Pradesh* [W.P. (Civil) No.933 of 2014, dated 17-11-2015], the protection of an honest public servant is required not only in his interest but in the larger interest of society. We are not for a moment giving a certificate that the 1st respondent is an honest officer. But when an officer chooses to lodge a complaint on the ground that a contractor who had the blessings of others in the Department threatened him, the Department should not put him on the mat by proceeding against him. If the Department had undertaken a preliminary enquiry and thereafter proceeded against the 1st respondent, then probably there would have been no occasion for interference.

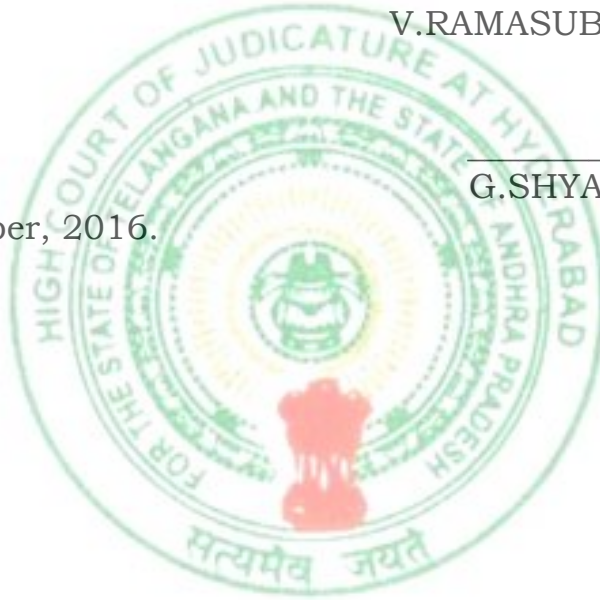
11. Therefore, we are of the considered view that the Tribunal did a right thing in quashing of at least the 1st charge. But the 2nd charge is actually consequential.

The only piece of evidence that the 1st respondent had for taking action against the contractor was the file. If somebody wanted that file to be handed over and initiated departmental proceedings, the same was obviously for protecting someone. Therefore, we do not wish to interfere with the order of the Tribunal. Hence, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

G.SHYAM PRASAD, J.

05th December, 2016.
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AND
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(per VRS, J.)



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