

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Smt.Justice Anis

Writ Petition No.6807 of 2016

Date: 03.03.2016

Between:

G.Praveen Kumar

.. Petitioner

and

The State of Andhra Pradesh
rep. by its Prl.Secretary
Home Dept.,
Hyderabad and 5 others

.. Respondents

Counsel for the petitioner :

**Mr.GVS.Mehar Kumar
for Mr.Ch.Vidyasagar**

Counsel for respondent Nos.1 to 5: GP for Services

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The Court made the following:

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O r d e r : (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The petitioner, who is a Police Constable under suspension and Accused No.2 (A.2) in PRC.No.22 of 2014 on the file of the Court of the learned Chief Metropolitan Magistrate at Visakhapatnam registered for the offences under Sections 376-C, 450, 354-D, 366, 506 and 509 IPC, along with another Police Constable by name Kadavala Jaya Rajendra Vara Prasad @ Varma (A.1) approached the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal') by filing OA.No.5888 of 2015 to declare the action of respondent No.3 in issuing Charge Memo, dated 28.10.2013, as illegal & arbitrary and consequently, to direct the respondents not to proceed with the departmental proceedings pending Criminal Case against him. The petitioner also sought for an interim relief to reinstate him into service.

After a detailed hearing of the case, we feel that the petitioner is discriminated against the other Police Constable referred to above, who figured as A.1 in the aforementioned Criminal Case. Indeed, we have gone through the charge sheet filed in the Criminal Case, which shows that among these two

persons, A1 is the one, who allegedly exploited the defacto-complainant earlier than the petitioner. The petitioner has filed the proceedings in C.No.2578/A6/2013, dated 30-07-2014, of the Superintendent of Police, Visakhapatnam District, whereunder suspension against A.1 was revoked with immediate effect subject to the outcome of the departmental proceedings against him. Following the same, a separate proceeding was issued on 27-01-2015 wherein it is stated that A.1 has reported for duty on 02-08-2014.

The learned Government Pleader for Services is unable to justify the different treatment meted out to the petitioner, who as noted above is A.2 in the Criminal Case.

At the hearing, we have noticed that the petitioner has not sought for revocation of suspension as the main relief. Ordinarily, an interim relief cannot travel beyond the scope of the main relief. Realising this fact, the learned Counsel for the petitioner submitted that if his client is reinstated by revoking the suspension order, he will participate in the departmental proceedings and that he will not press the OA.

Considering the fact that the petitioner is discriminated *qua* A.1, we feel that he cannot be denied the appropriate relief, if he is otherwise entitled in law merely because such relief was not claimed by him in the OA and more so, when his Counsel has submitted that the former may not have objection to participate in the departmental proceedings provided the order of suspension is revoked.

In the above facts and circumstances of the case, we allow the Writ Petition and direct the respondents to forthwith reinstate the petitioner into service by invoking his suspension, proceed with the departmental enquiry and pass a final order as expeditiously as possible.

As a sequel, WPMP.No.8668 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(Anis, J)

Dt: 3rd March, 2016

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