

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION (TR) No.236 OF 2017

DATED : 22.06.2017

Between :

B.Varalaxmi, W/o.B.Sudarshan,
Aged 44 yrs, working as Administrative Officer,
O/o.Regional Transport Officer, Khammam,
R/o.Gattaiah Centre, Dwarakanagar,
Khammam, Khammam District.

.. Petitioner/Applicant

And

The Transport Commissioner,
Transport Bhavan, Khairatabad,
Hyderabad & another.

.. Respondents



This court made the following :

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ORDER :

Petitioner was promoted as Administrative Officer, in January, 2010. On 27.04.2010 charge memo was drawn. In the said disciplinary proceedings, petitioner was implicated, in addition to nine other officers and the said disciplinary proceedings are pending. It appears the Commissioner of Enquiries submitted his report in April, 2015. Enclosing the findings of the report of the Commissioner of Enquiries, show cause notice was issued to the petitioner. Petitioner filed her objections on 25.05.2015. The issue is pending at that stage.

2. This writ petition is filed claiming that merely because disciplinary proceedings are pending, there is no justification in not declaring the probation of the petitioner and continuing the petitioner as probationer in the post of Administrative Officer.

3. Learned counsel for the petitioner contends that petitioner is not responsible for the inordinate delay in initiation and conclusion of disciplinary proceedings, and therefore, merely on the ground that disciplinary proceedings are pending, she cannot be kept under probation for seven long years. He further submits that the issue on which the disciplinary action was initiated relates to the period when she was working as Senior Assistant and therefore, that could not have been the basis for denying declaration of probation in the cadre of Administrative Officer.

4. Per contra, learned Government Pleader by placing reliance on 2nd proviso appended to Rule 18 of the Andhra Pradesh State and Subordinate Service Rules and contends that since the disciplinary proceedings are pending, the probation of the petitioner cannot be declared.

5. It is not in dispute that the disciplinary proceedings are pending and the same are not under challenge. Thus, this Court is not inclined to go into the validity of initiation of disciplinary proceedings.

6. The only issue for consideration is whether on the ground of pending disciplinary proceedings the competent authority can refuse to declare probation of petitioner.

7. At this stage, it is useful to extract the 2nd proviso appended to Rule 18 (b). The proviso reads as under:

“Provided that nothing in this sub-rule shall apply to a probationer who has been communicated a memorandum of charges during the prescribed or extended period of probation or who has failed to acquired the special qualifications or to pass the special tests, if any prescribed in the special rules or to acquire such other qualifications, as may be declared by the State Government or by the appointing authority with the approval of the State Government, to be equivalent to the said special qualifications or special tests, within the said period of probation.”

8. A plain reading of the above proviso makes it clear that if disciplinary proceedings are initiated when an employee is on probation, his probation cannot be declared until the disciplinary proceedings are concluded. As the above statutory provision is staring at the petitioner, the claim of the petitioner for declaration of probation cannot be granted and the writ petition is liable to be dismissed and is accordingly dismissed.

9. At this stage, learned counsel for the petitioner submits that since the disciplinary proceedings are pending for long time for no justifiable cause or reason and on the ground of pending disciplinary proceedings, the probation of the petitioner is not declared, a direction be issued for early conclusion of the disciplinary proceedings. It is needless to observe that the disciplinary proceedings have to be concluded as expeditiously as possible and such a long time ought not to have been taken. It is therefore, expected that the competent authority shall dispose of the disciplinary proceedings, if the delay is not attributable to the petitioner, as expeditiously as possible, preferably within a period of four (4) months from the date of receipt of copy of this order. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition (Tr) shall stand closed.

22nd June, 2017
Rds

P.NAVEEN RAO,J

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