

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**The Hon'ble Sri Justice V.RAMASUBRAMANIAN
and**

The Hon'ble Smt Justice T. RAJANI

Writ Petition No.27828 of 2017

Between:

M. Jacob, S/o Janaiah, aged about 37 years,
Occ: Additional Junior Civil Judge, R/o Jagaiahpet,
Krishna District

... Petitioner

Vs.

High Court of Judicature at Hyderabad
For the state of Telangana and the State of A.P.,
Represented by its Registrar (Vigilance)

.. Respondent

For Petitioner : Mr. M. Vijaya Kumar Goud,

For Respondents : Mr. Abinand Kumar Shavali
Standing counsel for the respondent

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MRS. JUSTICE T. RAJANI

Writ Petition No.27828 of 2017

ORDER: (V. Ramasubramanian, J)

Aggrieved by the rejection of his request for engaging a legal practitioner to defend him in the departmental enquiry, an Additional Junior Civil Judge has come up with the above writ petition.

2. Heard Mr. M. Vijaya Kumar Goud, learned counsel for the petitioner and Sri Abhinand Kumar Shavali, learned standing counsel for the respondent.

3. The disciplinary proceedings as against the petitioner herein, were initiated admittedly under Rule 20 of the Andhra Pradesh Civil Services (Classification, Conduct and Appeal) Rules, 1991. Clause (c) of sub-rule (5) of Rule 20 reads as follows:

“Where the disciplinary authority itself inquires into any articles of charge or appoints a serving or retired Government servant as Inquiring Authority for holding the inquiry into such charge, he shall also by an order appoint serving or retired Government servant or Legal practitioner or a legally trained Government servant as Presenting Officer to present the case in support of the articles of charge;

Provided that no Government servant dealing in his official capacity with the case of inquiry relating to the person charged or any officer to whom an appeal may be preferred shall be permitted by the inquiring authority to appear on behalf of the person charged before the inquiring authority;

Provided further that the Government servant may take the assistance of any other Government servant posted at any other station, if the inquiring authority having regard to the circumstances of the case and for reasons to be recorded in writing, so permits.”

4. A careful look at the above rule would show that a Government Servant is entitled to take the assistance of any other

Government Servant to present the case on his behalf, but he cannot engage a retired Government servant or a legal practitioner for the purpose, unless the presenting officer appointed by the Disciplinary Authority is one such, or the disciplinary authority, having regard to the circumstances of the case so permits.

5. In the case on hand, the petitioner, who is a delinquent, the Presenting Officer as well as the Enquiry Officer are all legally qualified. All of them are Judicial Officers. Since there are no separate Rules governing the conduct of disciplinary proceedings for judicial officers, the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 have been made applicable for judicial officers also.

6. Primarily, Rule 20 (5) (c) of the Rules, is intended for the benefit of a Government servant, who is not a legally qualified person. In the case of any other Government servant, who is not legally qualified, it is possible that the presenting officer or the Enquiry Officer may be legally qualified. Therefore, the aforesaid rule is drafted in such a manner that a Government servant ignorant of the law, cannot be put down by a presenting officer well versed in law. Such a contingency would not normally apply in the case of judicial officers.

7. When judicial officers who are legally qualified, face disciplinary proceedings, it cannot be expected that the presenting officer can be a person, who is not legally qualified or the Enquiry Officer can be a person, who is not legally qualified. Therefore, Rule 20 (5) (c) of the Rules, cannot be applied *ipso facto* to the case of

judicial officers. The judicial officers are normally expected to be well versed in law and to be able to defend themselves, as they are expected to advance the cause of justice on the Bench.

8. Therefore, legally speaking, no judicial officer can place reliance upon Rule 20 (5) (c) of the Rules to seek as a matter of right, the entitlement to engage a legal practitioner.

9. However, taking into account the facts and circumstances of the case, especially, the charges framed against the petitioner, we deem it fit to permit the petitioner to engage the services of a legal practitioner, though we are of the clear view that he cannot elevate his claim as a matter of right.

Therefore, the writ petition is allowed, the impugned order is set aside and the petitioner may be permitted to engage the services of a legal practitioner.

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

V. RAMASUBRAMANIAN, J

T. RAJANI, J

Date: 14-09-2017

Ksn