

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.30275 of 2017

ORDER

Initially, the petitioner was appointed as NMR in Hyderabad Metropolitan Development Authority (HMDA). In May, 1984 his services were regularized as Junior Assistant with effect from 21.11.1991. Thereafter, he was promoted as Senior Assistant in the year 1995. He was further promoted as Assistant Estate Officer and Administrative Officer during the years 2007 & 2012 respectively. While so, the respondent-HMDA entered into contract with M/s.Sai Security Services for providing security services and one Lunavath Shanker had joined as Security Guard. The said Shanker committed fraud by altering the numbers on cheques. In that connection, the Chief Accounts Officer gave a complaint on 15.3.2016 against the petitioner, his wife, the said Shanker and his wife. Pursuant to the same, Crime No.104 of 2016 was registered by Osmania Police Station, Kachiguda Division, on 15.3.2016 for the offences punishable under Sections 420, 406, 468 & 471 read with 34 IPC and the petitioner was arrested on 25.3.2016. Thereafter, he was placed under suspension by proceedings dated 02.04.2016 on the ground that a case was registered by the Sub Inspector of Police against the petitioner and four others on

the allegation of cheating and forgery of 54 cheques issued in favour of M/s. Sai Security Services. The petitioner stated that he is no way concerned with the said crime. In view of G.O.Ms.No.480, dated 7.9.1993 & G.O.Ms.No.86, dated 8.3.94, his case has to be reviewed for continuance beyond the period of six months. The petitioner submitted a representation on 17.10.2006 seeking reinstatement into services by revoking the order of suspension as more than one year had elapsed. The respondent-HMDA passed an order on 8.11.2016 stating that the request for reinstatement into service cannot be examined as the issue is still under investigation by the Police Department, CCS, DD Hyderabad. In those circumstances, he filed the present writ petition by relying on the decision of the Supreme Court in *Ajay Kumar Choudhary vs. Union of India*¹.

A counter-affidavit is filed on behalf of respondents 2 and 3 stating that the petitioner colluded with the 1st accused in the crime and the case is under investigation for identification of Bank Officials and some of the HMDA employees. It is also stated that necessary action would be taken on receipt of Final Investigation Report from the Police Department concerned. Since the investigation is under progress, the continuance of order of suspension in respect of the

¹ 2015 (7) SCC 291

petitioner is required. It is also stated that the case of the petitioner was reviewed by the competent authority as per G.O.Ms.No.86, dated 8.3.1994, and his request was rejected and the same was communicated. It is further stated that an internal departmental enquiry is also going on against the individual in addition to police enquiry and necessary action would be taken by the competent authority on receipt of enquiry report from the Enquiry Authority.

Learned counsel for the petitioner submits that no charge memo was issued to the petitioner even after lapse of more than one year and the petitioner is being continued under suspension merely due to the pendency of criminal investigation.

On the other hand, learned Standing Counsel appearing for the respondents submits that the ratio laid down in Choudhary's case (1 Supra) is not applicable to the instant case in view of the Division Bench judgment of this Court in *Buddana Venkata Murali Krishna v. State of Andhra Pradesh and others*²

It is settled law that the departmental proceedings are different from the criminal proceedings. However, with regard to continuance of suspension, the rules/guidelines issued by the Government are very clear.

² 2015(6) ALD 694 (DB)

In view of the same, this writ petition is disposed of by directing the respondents to review the orders of suspension periodically in terms of G.O.Ms.No.86, G.A (Services-C) Department, dated 8.3.1994 and any further Government order binding on the respondent-authority. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

7th November, 2017
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