

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

+ Writ Petition No.18025 of 2005

% Date: 05-12-2017

1. S.Riyaz Basha, S/o late Mahaboob Sab,
Aged 39 years, Armed Reserve Police Constable,
Special Squad, Anantapur

2. A.Sreeramulu, S/o late A.Ramappa,
Aged 39 years, Armed Reserve Police
Constable No.1876, Special Squad, Anantapur

... Petitioners

Vs.

\$ 1. The Inspector General of Police (Law & Order),
Rayalaseema Region, A.P., Hyderabad

2. The Deputy Inspector General of Police,
Anantapur Range, Anantapur

3. The Superintendent of Police, Anantapur

... Respondents

! Counsel for Petitioners: Mrs. P.Rajeswari, representing
Mr. D.Linga Rao

Counsel for Respondents: Government Pleader for
Services-I (Andhra Pradesh)

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> Head Note:

? Cases referred:

1. (1999) 3 SCC 679

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Writ Petition No.18025 of 2005

Order: (per V.Ramasubramanian, J.)

The petitioners have come up with the above writ petition, challenging a common order passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, dismissing two independent applications filed by them, challenging the orders of penalty passed against them.

2. Heard Smt. P.Rajeswari, learned counsel appearing on behalf of Mr. D.Linga Rao, learned counsel for the petitioners and the learned Government Pleader for Services-I (Andhra Pradesh).

3. The 1st petitioner herein filed an original application in O.A.No.1528 of 2001 on the file of the A.P. Administrative Tribunal challenging an order dated __-6-2000, whereby the Revisional Authority converted the punishment of removal from service into one of reduction in the time scale of pay by two stages for a period of two years. Similarly, the 2nd petitioner filed an independent application in O.A.No.1534 of 2001 challenging the order of the Revisional Authority modifying the penalty of removal from service into one of reduction in the time scale of pay by two stages for a period of two years.

4. Both the applications were dismissed by the A.P. Administrative Tribunal, forcing the petitioners to come up with the above writ petition.

5. At the outset, it should be pointed that by a common order dated 21-4-1998, the Superintendent of Police, Anantapur, imposed a penalty of dismissal from service upon both the petitioners, after dispensing with the requirement of an enquiry, in terms of Article 311(2)(b) of the Constitution read with Rule 25(ii) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991.

6. The petitioners filed independent appeals, but by a common order dated 09-8-1999, the Deputy Inspector General of Police dismissed the appeals. The petitioners thereafter filed independent revision petitions. By a common order dated __-6-2000, the Inspector General of Police allowed the revisions and modified the punishment of dismissal from service into one of reduction in the time scale of pay by two stages for two years.

7. Aggrieved by the common order passed by the Revisional Authority, the petitioners filed two independent original applications in O.A.Nos.1528 and 1534 of 2002. These applications were dismissed by the Tribunal by a common order dated 24-3-2004.

8. But unfortunately, the petitioners have chosen to come up with only one writ petition challenging the common order. Though the order was in common, the same was

passed in two independent applications filed by the petitioners. Before the Appellate Authority, the Revisional Authority and before the Tribunal, the petitioners prosecuted their remedies separately and rightly so. But today, they have chosen to prosecute their remedy in a single writ petition, which is not permissible. Therefore, the very maintainability of the writ petition, is in doubt, since the petitioners ought to have filed two independent writ petitions challenging the common order passed in two independent original applications.

9. De hors the same, we do not also think that there are any merits in the writ petition. It is seen from the original order of penalty that the petitioners were posted as personal security officers to a person, by name Paritala Ravindra. It was alleged that the petitioners took away one Venkatanarayana Chetty and one Adinarayana Reddy belonging to a rival gang, from the premises of NTR Estate situate in Abids, Hyderabad, on the instructions of Paritala Ravindra, leading to the murder of those persons. It is stated in the order of dismissal from service that there were 5 witnesses to the incident whom the Department could have examined. But out of them, one witness by name Venkata Ranga Reddy was allegedly murdered by an extremist organisation owing allegiance to the accused. The other witness was in judicial custody in a case relating to a car bomb. Two other witnesses who were to be examined in the

departmental enquiry, did not wish to come forward to depose, as their lives were in danger.

10. Taking into account all the above facts, the Disciplinary Authority came to the conclusion that it is not feasible to conduct an enquiry. Hence, he invoked Article 311(2)(b) of the Constitution read with Rule 25(ii) of the A.P. Civil Services (CCA) Rules, 1991, to dismiss the petitioners from service summarily.

11. Though the Appellate Authority dismissed the appeals filed by the petitioners, the Revisional Authority considered the case of the petitioners sympathetically. By the time the revision petitions were taken up for consideration, the petitioners were acquitted in the criminal case in which they were implicated, for the murder of the aforesaid two persons. Therefore, taking note of the acquittal, the Revisional Authority came to the conclusion that a lenient view could be taken. At the same time, the Revisional Authority did not want to let the petitioners off, in view of the fact that there was a failure on their part to monitor the activities of the person for whom they were posted as personal security officers.

12. In the above circumstances, we do not think that the orders of the Revisional Authority require any modification.

13. Though the learned counsel for the petitioners placed reliance upon the decision of the Supreme Court in

M.Paul Anthony v. Bharat Gold Mines Ltd.¹, we do not think that the said decision has any bearing upon the present case. In **Paul Anthony**, the Supreme Court was concerned with the question whether the departmental proceedings and criminal proceedings can simultaneously go on, when they were on the same set of facts. In this case, the Disciplinary Authority dispensed with the enquiry, for which he had power under special circumstances. Therefore, it was not a case of parallel proceedings. Moreover, it was the acquittal of the petitioners in the criminal case that earned them back their employment with a lesser penalty. Therefore, we see no reason 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.

M.GANGA RAO, J.

05th December, 2017.
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¹ (1999) 3 SCC 679

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(per VRS, J.)



05th December, 2017.
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