

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N. BALAYOGI**

WRIT PETITION No. 25559 of 2013

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The Government of Andhra Pradesh and its authorities in the Police Department filed this writ petition aggrieved by the order dated 22.04.2013 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.1405 of 2013.

The said O.A. was filed by respondents 1 and 2, Home Guards, assailing the proceedings dated 04.02.2013 passed by the Superintendent of Police, Y.S.R. District, Kadapa, removing them from service. By the order under challenge, the Tribunal set aside the said proceedings and directed the authorities to reinstate respondents 1 and 2 into service. The Tribunal also gave liberty to the authorities to take action against respondents 1 and 2 as per rules.

By order dated 02.09.2013, this Court granted interim suspension of the order passed by the Tribunal for a limited period while ordering notice to respondents 1 and 2. On 28.01.2014, this Court extended the interim suspension granted earlier until further orders. This Court also made it clear that liberty was available to respondents 1 and 2 to move this Court after disposal of the criminal case pending against them.

W.P.M.P.No.14008 of 2016 was filed by respondents 1 and 2 seeking expeditious disposal of the writ petition. They also filed W.V.M.P.No.1303 of 2016 to vacate the interim suspension granted by this Court on 02.09.2013 and extended on 28.01.2014.

Heard the learned Assistant Government Pleader for Services (Andhra Pradesh) appearing for the petitioners and Sri D.L. Pandu, learned counsel for respondents 1 and 2.

Perusal of the record reflects that respondents 1 and 2 were not only proceeded against on the criminal side but also departmentally. Crime No.113 of 212 was registered under various provisions of the Indian Penal Code on the file of Rajampet Urban Police Station. This criminal case was taken on record by the Judicial Magistrate of First Class, Rajampet, in C.C.No.136 of 2013. The police authorities also instituted disciplinary proceedings against respondents 1 and 2 independently and after giving them due opportunity of hearing, in terms of calling for their explanation, they were removed from service under the proceedings dated 04.02.2013 passed by the Superintendent of Police, YSR District, Kadapa. The Tribunal was of the opinion that sufficient opportunity was not given to respondents 1 and 2 and reliance in this regard was placed on the judgment in ***State of Andhra Pradesh v. P. Prasad Rao***¹.

We find that the Tribunal failed to understand the import of the law laid down by this Court in the aforesaid judgment. Therein, this Court referred to Rule 7 (4) of the applicable Rules, which only requires that a reasonable opportunity should be given to the Home Guard, and held that the show cause notice given to the Home Guard in this regard must contain the imputations and the material which was the basis for that, so that the Home Guard concerned would have a reasonable opportunity to put forth his explanation.

¹ 2012 (1) ALD 76 (DB)

In the present case, the explanations offered by respondents 1 and 2 clearly demonstrate that they were well aware of the charges levelled against them in the departmental proceedings. We therefore find no reason to hold that the disciplinary proceedings initiated against respondents 1 and 2 suffer on any count, warranting interference with their removal under the proceedings dated 04.02.2013 passed by the Superintendent of Police, YSR District, Kadapa. The order dated 04.02.2013 passed by the Tribunal in O.A.No.1405 of 2013 is accordingly set aside.

However, as it is now stated that respondents 1 and 2 were ultimately acquitted in C.C.No.136 of 2013 and as liberty was given to them to move this Court upon disposal of the criminal case, respondents 1 and 2 are permitted to make a representation to the authorities concerned relying upon their acquittal in the criminal case. It is left open to the authorities to take the same into consideration and deal with the matter as they deem fit in accordance with the rules

The writ petition is therefore allowed in part to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

N. BALAYOGI, J

Date: 02.03.2017

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