

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.4777 of 2017

Date: 27.03.2017

Between:

K.Balakrishna Reddy s/o. K.Ramachandra Reddy,
Aged 45 years, Occu: Police Constable,
ARPC 2297 of DCP Head Quarters, Cyberabad
and now Rachakonda Commissionerate,
Hyderabad.

.....Petitioner

and

The State of Telangana, rep.by its Principal Secretary,
Home Department, Secretariat, Hyderabad and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Heard Sri M.Surender Rao, learned senior counsel appearing for Sri Srinivasa Rao Madiraju, learned counsel for petitioner and learned Government Pleader for respondents. With their consent, the writ petition is disposed of finally at the admission stage.

2. Petitioner is a Police Constable. Disciplinary action was initiated against him and is pending. He was served with charge memo, by Memorandum dated 16.01.2016, containing two charges. In this writ petition, petitioner challenges the charge memo and continuation of disciplinary action on the ground that crime was registered against him on the very same set of allegations and investigation is completed by the police and at this stage, the respondents cannot conduct departmental enquiry as it would prejudice his defense in the criminal proceedings.

3. It is not in dispute that so far no charge sheet is filed and registered crime is only at the stage of investigation. Further, as seen from the charge memorandum, there are two charges. Sum and substance of the allegation in the first charge is involvement in criminal case on allegation of impersonation, cheating, forgery and fabrication of documents. Sum and substance of the allegation in the second charge is that petitioner exhibited grave misconduct and gross dereliction of duties in deserting the force from 07.03.2015.

4. Having regard to these facts, it cannot be said that disciplinary authority is barred from conducting disciplinary proceedings.

5. At this stage, learned senior counsel appearing for petitioner fairly submits that though enquiry may go on, liberty may be granted to the petitioner to ask deferment of enquiry in the event of filing of charge sheet in the Criminal Court.

6. Having regard to the said submission and having regard to the precedent decisions on the subject, I deem it proper to dispose of the writ petition with a direction to the disciplinary authority to conduct and complete enquiry on the two charges levelled against petitioner. However, before the enquiry is concluded, if charge sheet is filed in the criminal case, it is open to the petitioner to appraise the disciplinary authority of filing of charge sheet in the criminal case and to request deferment of enquiry on first charge. In such an event, disciplinary authority shall examine the desirability of further continuation of disciplinary action and shall take appropriate decision. In any event there is no impediment in continuing disciplinary action on the allegation of desertion. It is also needless to observe that even after enquiry is conducted and completed the defense disclosed by the petitioner in the domestic enquiry shall not be used against petitioner, prejudicial to him, in the criminal case merely on the ground that such defense is disclosed by him in the departmental proceedings.

7. Writ Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

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kkm

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