

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

W.P.No. 27311 OF 2017

DATED 17TH AUGUST, 2017

Between:

The Commissioner of Police,
Hyderabad City Police Commissionerate,
Basheerbagh, Hyderabad, and others

... Petitioners

AND

K.Narayan Rao

... Respondent

Counsel for the petitioners

:

G.P. for Services (T.S.)

Counsel for the respondent

:

--



THE COURT MADE THE FOLLOWING

ORDER: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

The Government of Andhra Pradesh and its functionaries of Home Department filed this Writ Petition feeling aggrieved by order dated 25-01-2016 in O.A.No. 2308 of 2012 with V.M.A.No. 1016 of 2012 on the file of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal').

2. We have heard learned Assistant Government Pleader for Services (T.S.) and perused the record.

3. The respondent is a Head Constable. A criminal case was registered against him *vide* C.C.No.811 of 2007, wherein he was accused of misusing his official position. He was also kept under suspension from 09-07-2007. About four years later, the petitioners have initiated departmental proceedings by issuing a charge memo on 17-08-2011. The respondent has filed O.A.No. 2308 of 2012 assailing the initiation of departmental proceedings when the criminal case is pending. The Tribunal granted *interim* order on 28-03-2012 suspending the articles of charge. By the impugned order, the Tribunal has allowed the O.A. holding that when the charges in the criminal case as well as the departmental proceedings are common, it is not appropriate for the petitioners to proceed with the departmental proceedings as the respondent will be forced to disclose his defence which may cause prejudice to his interests in criminal proceedings. The Tribunal however left the petitioners free to proceed further depending upon the result of the criminal proceedings.

4. Having carefully considered the facts of the case and the reasons assigned by the Tribunal, we do not find any illegality in the impugned order. As per the settled legal position, while there is no bar on the employer to initiate departmental proceedings in respect of the same charges which are subject

matter of criminal proceedings, it is not desirable for the employer to proceed with the departmental proceedings pending the criminal case as the delinquent may be forced to disclose his defence in the departmental proceedings which may eventually prejudice his interests in the criminal case. In view of this settled legal position followed by the Tribunal, we do not find any reason to interfere with the impugned order of the Tribunal.

5. The Writ Petition is accordingly dismissed.

6. As a sequel to dismissal of the Writ Petition, W.P.M.P.No. 33938 of 2017 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J.

GUDISEVA SHYAM PRASAD, J.

Date: 17-08-2017.

JSK

