

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.8769 of 2004

Date: 05.10.2017

Between:

Government of Andhra Pradesh, rep. by its
Secretary, Home (Police) Services Department
Secretariat, Hyderabad & others

... Petitioners

And

T. Baga Reddy

... Respondent

Counsel for petitioners : Government Pleader for Services-I (TS)

Counsel for respondent : None appeared

This court made the following:



HON'BLE SRI JUSTICE C. V. NAGARJUNA REDDY
AND
HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.8769 of 2004

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

This writ petition is filed for issue of a *Certiorari* to quash the order dated 18.8.2003 in O.A.No.3284 of 1996 on the file of Andhra Pradesh Administrative Tribunal, Hyderabad (for short, "the Tribunal").

2. Though notice has been served on the respondent, he has not entered appearance. We have heard the learned Government Pleader for Services (TS) and perused the record.

3. The respondent was initially appointed as Police Constable in the Nizamabad District. In the year 1983, he was deputed to work in the Railway Police Unit under petitioner No.3. While the respondent was working in that position, a complaint was made by a businessman against him to the effect that the respondent has detained three drums of live fish without any authority in the railway station. The said complaint led to initiation of disciplinary proceedings against the respondent. Petitioner No.3 appointed the Deputy Superintendent of Police, Railways, Secunderabad, as Enquiry Officer. After enquiry, he submitted his report holding that the charge was not proved. Disagreeing with the findings of the enquiry officer, petitioner No.3 has issued notice to the respondent and after considering the explanation, he has imposed the penalty of reduction in time scale of pay by one stage for one year with effect on future increments and pension and treating the suspension period from 15.02.1990 as not on duty. Challenging this order, the respondent filed the O.A.No.3284 of 1996 before the Tribunal. By the impugned order, the Tribunal allowed the O.A on the short ground that

the respondent was repatriated to the Nizamabad District Civil Police Unit which is his parent unit and that therefore after such repatriation respondent No.3 has no jurisdiction to impose the penalty.

4. The learned Government Pleader placed reliance on the proviso to Rule 16(1) of the A.P C.S (CC and A) Rules, 1963 which reads as under:

“Rule 16(1): Where, on promotion or transfer, a member of a Subordinate Service in a class, category or grade is holding an appointment in another class, category or grade thereof or in another service, State or Subordinate, no penalty shall be imposed upon him in respect of his work or conduct before such promotion or transfer except by an authority competent to impose the penalty upon a member of the service in the latter class, category, grade or service, as the case may be. This provision shall apply also to cases of transfer or promotion of a person from a post under the jurisdiction of one authority to that of another authority within the same class, category or grade.

Provided that the authority which may impose any of the penalties on a member of the Andhra Pradesh Police Subordinate Service or the Andhra Pradesh Special Police Service in cases not involving promotion or appointment by transfer, shall be the competent authority having jurisdiction over such member at the time of commission of such act or omission, as the case may be, or any higher authority.”

5. A careful reading of the above reproduced proviso would show that the authority which was competent to impose the penalty on a subordinate employee is the one who was having jurisdiction over such employee at the time of commission of act or omission for which penalty was proposed to be imposed. Undoubtedly, petitioner No.3 had jurisdiction over the respondent when the complaint against him was committed. Therefore, his subsequent transfer or repatriation to his parent unit does not denude petitioner No.3 of jurisdiction to impose penalty on the respondent. The Tribunal has completely overlooked this

aspect and erroneously held that petitioner No.3 has no jurisdiction to impose the penalty on the respondent.

6. In this view of the matter, the order of the Tribunal is not sustainable and the same is accordingly set aside and the writ petition is allowed. No order as to costs.

7. As a sequel to allow of the writ petition, W.P.M.P.No.11343 of 2004 is disposed of.

C. V. NAGARJUNA REDDY, J

KONGARA VIJAYA LAKSHMI, J

Date: 05.10.2017.
Bss/ Gk.



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WRIT PETITION No.8769 of 2004

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



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