

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

WRIT APPEAL No.1533 of 2017

Date:16.10.2017

**Between:**

Dr. K.Jaya Shyam Sunder,  
W/o K.Shyam Sunder

..... Appellant

**And:**

Director of Public Health & Family Welfare,  
Govt. of Telangana & another.

.....Respondents

Counsel for the appellant: Mr. P.V.Krishnaiah

Counsel for the respondents: GP for Services (TS)

The Court made the following:

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

This Writ Appeal arises out of order, dated 21.9.2017, in Writ Petition No.31216 of 2017, whereby the learned single Judge dismissed the said Writ Petition filed by the appellant.

We have heard Mr. P.V.Krishnaiah, learned counsel for the appellant, and the learned Government Pleader for Services (Telangana State).

The appellant is a Civil Assistant Surgeon working in Primary Health Centre, Nereducherla, Suryapet, Nalgonda District. Purporting to rely upon a report sent by the Inspector General of Police, Intelligence Department, Telangana State, Hyderabad, a charge memo was issued to the appellant, vide Rc.No.10263/VC.B/2017, dated 19.7.2017. It is stated therein that it is proposed to hold an enquiry against the appellant in accordance with the procedure laid down in Rule-24 of the Telangana Civil Services (Classification, Control and Appeal) Rules (for short 'the Rules'). The charge memo referred to the statement of article of charge, vide Annexure-I, the substance of imputations of misconduct and misbehaviour set out in the article of charge, vide Annexure-II and the list of documents and the list of witnesses by which the article of charge is proposed to be sustained, vide in Annexures-III & IV, respectively. On receipt of the charge memo, the appellant has

submitted her explanation to respondent No.1 on 16.8.2017, denying the charge. She has also submitted a similar explanation on 17.8.2017 to the Special Chief Secretary, Public Health and Family Welfare Department, State of Telangana. By her further representation, dated 07.9.2017, made to respondent No.1, the appellant has pointed out that the documents referred to in Annexure-III of the charge memo were not enclosed thereto; that before looking into those documents, she submitted her explanation; and that she requested respondent No.1 to furnish the said documents to her.

The appellant filed the afore-mentioned Writ Petition questioning the charge memo mainly on the ground that it is vague. The learned single Judge, however, dismissed the said Writ Petition by observing that the plea of vagueness was not raised by the appellant in her explanation to the charge memo. The learned single Judge nevertheless issued a direction to respondent No.1 to furnish copies of the documents to the appellant and complete the enquiry within three months from the date of receipt of a copy of that order.

Mr. P.V.Krishnaiah, learned counsel for the appellant, strenuously submitted that the charge is bereft of any details as to the timings during which his client has attended the Nursing Home, which she has been allegedly running, etc. He has placed

heavy reliance on the judgment of the Supreme Court in *Anant R.Kulkarni Vs. Y.P.Educational Society and Others*<sup>1</sup> in support of his submission that a vague charge is liable to be struck down as, it does not afford proper opportunity to the appellant to submit an effective explanation.

We have carefully considered the submissions of the learned counsel for the appellant with reference to the material on record.

A perusal of the charge memo shows that Annexure-I contains the sole charge in the form of article and it reads as under:-

“That Dr. Jaya Shyam Sunder, CAS, PHC, Nereducherla, Suryapet District is running private hospital at Doctors Colony, Miryalaguda and spends most of her time in her private hospital. She is irregular to her duties. Thereby, she failed to maintain absolute integrity, discipline, devotion to duty and exhibited unbecoming of a Government servant and violated Rule-3 of CCA Rules, 1964.”

Annexure-II of the charge memo contains the statement of imputations of misconduct and misbehaviour in support of the article of charge, which reads as under:-

“Basis of the charge: Based on the report of the Intelligence Department, Telangana State, Hyderabad on irregular functioning of Government

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<sup>1</sup> 2013(6) SCC 515

Hospitals in Nalgonda, Suryapet, Yadadri and Bhuvanagiri District, the Government have instructed to take action against the irregular doctors and staff who were found negligent in their duties.”

Annexure-III contains the list of documents based on which the article of charge was framed and Annexure-IV contains the list of witnesses by whom the article of charge framed against the appellant is proposed to be proved.

The gravamen of the charge against the appellant is that she is running a private Hospital at Doctors Colony, Miryalaguda; that she spends most of her time in the private hospital; and that she is irregular to her duties. The statement of imputations refers to the basis of charge being the report of the Intelligence Department apart from the demi-official letter of the Special Chief Secretary to Government as the documents based on which the charge was proposed to be proved.

As observed by the learned single Judge in the impugned order, there is no whisper about the vagueness of the charge in any of the three representations made by the appellant and in the representation, dated 07.9.2017, she requested for furnishing copies of documents to enable her to submit further explanation. Therefore, in our opinion, the said plea raised for the first time in the Writ Petition is a pure after thought.

The object behind the principle that the charge must be specific and not vague is to enable the delinquent to understand the true nature of the accusation. As could be seen from the article of charge, its purport is that the appellant has been spending time in running a private hospital at Doctors Colony, Miryalaguda and she is irregular to her duties as Government doctor. The details regarding the name of the private hospital which the appellant is running and the timings for which she has been attending to her duties may be a matter for evidence. Merely because these details are not mentioned in the charge, the same cannot be termed as vague.

While there is no quarrel on the proposition of law discussed in *Anant R.Kulkarni* (supra) that the charge must be specific, on the facts of this case, we are of the opinion that the said judgment does not come to the aid of the appellant.

Learned counsel for the appellant submitted that under Sub-rule-(4) of Rule-20 of the Rules, the disciplinary authority has to ask the Government servant, after submitting the written statement of defence, whether he/she is guilty or has any defence to make, and where he/she pleads not guilty, the disciplinary authority shall record the plea and obtain the signature of the Government servant thereof and may decide such date it may think fit for holding inquiry into the charges.

He has further submitted that after the appellant submitted her written statement of defence, respondent No.1 who is the disciplinary authority has not followed this procedure so far.

Learned Government Pleader for Services (Telangana) has not disputed this submission.

In our opinion, the procedure envisaged under Sub-rule-(5) of Rule-20 of the Rules is intended to enable the disciplinary authority to apply his mind as to whether in the light of the written statement of defence offered by the Government servant, it is necessary to conduct inquiry or drop the charge. Therefore, this valuable right cannot be denied to the Government servant. Respondent No.1 is, hence, directed to fix a date for personal hearing of the appellant and after considering the written statement of defence submitted by her and also the oral explanation that may be submitted by her during the personal hearing, he shall take a decision as to whether to continue the departmental inquiry or not. However, if he is of the opinion that the inquiry needs to be held, he shall forthwith appoint an Inquiry Officer, who shall complete the inquiry within the time stipulated by the learned single Judge.

Subject to the above observations and directions, the Writ Appeal is dismissed.

As a sequel, WAMP.No.2834 of 2017 stands dismissed as  
infructuous.

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*JUSTICE C.V.NAGARJUNA REDDY*

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*JUSTICE K.VIJAYA LAKSHMI*

*16<sup>th</sup> October 2017*

*DR*

