

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

The Hon'ble Sri Justice V. RAMASUBRAMANIAN
and
The Hon'ble Sri Justice M. GANGA RAO

WRIT PETITION No.37072 OF 2017

Between:

P. Srimannarayana S/o. P.C. Satyanarayana,
57 years, Chief Incharge (In-Charge) INCAP,
Energy, I & I Department, Vijayawada,
Krishna District.

...Petitioner

Vs.

State of Andhra Pradesh,
Rep. by its Principal Secretary to Government,
Transport, Roads & Buildings (SR.I) Department,
Secretariat, Velagapudi, Amaravathi,
Guntur District and another

.. Respondents

For Petitioner : Sri P.V. Krishnaiah

For Respondents : Government Pleader for Services –I
(AP)



HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.37072 OF 2017

ORDER: (per V. Ramasubramanian, J)

Aggrieved by a minor penalty of stoppage of one increment without cumulative effect imposed upon him, the Chief Engineer (In-charge) filed an application in O.A. No.2716 of 2017 on the file of the Andhra Pradesh Administrative Tribunal. The Tribunal ordered notice in the application. Contending that the Tribunal ought to have granted interim stay of the orders of penalty, the petitioner has come up with the above writ petition.

2. Heard Mr. P.V. Krishnaiah, learned counsel for the petitioner. In view of the limited nature of the dispute, we directed the Government Pleader for Services-I (AP), to take notice.

3. In principle, the petitioner cannot make out a case against the refusal of the Tribunal to grant an interim order suspending the orders penalty. The orders of penalty cannot be stayed by the Tribunal.

4. But, in this case the orders of penalty could have been set aside even at the first instance for the reason that the charge memos issued against the petitioner, on 18.10.2012, were under Rule 20 of the Andhra Pradesh Civil Services (CC & A) Rules, 1991. The petitioner had submitted an explanation denying the charges.

5. Without holding an enquiry and without passing a formal order converting the major penalty proceedings into minor penalty proceedings, the Government straightaway imposed two minor penalties. There is no bar for the conversion of major penalty proceedings into minor penalty proceedings and vice-versa. But unless such conversion is

done, a penalty cannot straightaway be imposed, without following the procedure prescribed by the Rule under which the proceedings were initiated.

6. In view of the above, the writ petition is allowed and the impugned orders of penalty under G.O.Rt. Nos.190 and 191, dated 28.06.2017, are set aside. It will be open to the Department to proceed in accordance with the procedure prescribed by Rule 20 of the Andhra Pradesh Civil Services (CC & A) Rules, 1991. Consequently, the O.A. filed before the Tribunal shall stand closed.

7. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.



V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

November 06, 2017

Note:

Furnish CC by 07.11.2017.

B/o.
KTL