

The Hon'ble Sri Justice V.RAMASUBRAMANIAN
and
The Hon'ble Sri Justice M. GANGA RAO
+ WRIT PETITION No.41811 OF 2017

Date:12.12.2017

Between:

%M. Balaji Kumar S/o.Nagaiah,
Aged about 36 years,
Occ: Police Constable,
Working at Krishnalanka P.S.,
Vijayawada City, R/o.D.No.77-51/ 1-6,
Prakash Nagar, Near Ramalayam,
Vijayawda, Krishna District.

...Petitioner

Vs.

\$ The State of Andhra Pradesh,
Rep.by its Principal Secretary,
Home Department, Secretariat,
Guntur District and another.

... Respondents

! Counsel for Petitioner : Sri P. Nagendra Reddy

^ Counsel for Respondents : G.P. for Home

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> Head Note :

?Cases referred : 1. (2006) 5 Supreme Court Cases 446
2. AIR 1999 SC 1416.

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No. 41811 OF 2017

ORDER: (per V. Ramasubramanian, J)

Aggrieved by the dismissal of his original application by the Andhra Pradesh Administrative Tribunal, a Police Constable, who was removed from service pursuant to disciplinary proceedings, has come up with the above writ petition.

2. Heard Mr. P. Nagendra Reddy, learned counsel appearing for the petitioner.

3. The petitioner was working as a Police Constable. Had he not had any ambition for promotion to higher post, he could have at least be happy in the post of Police Constable. Driven by an ambition to get promotion to the post of Sub-Inspector, the petitioner participated in the selection. Had he participated in the selection by himself, he could have either succeeded or failed. But, like actors in films, the petitioner engaged a dupe to run the 100 meters event, which was necessary to qualify for selection to the post of Sub-Inspector.

4. Unfortunately, the person who ran 100 meters on behalf of the petitioner got caught leading to initiation of departmental proceedings against the petitioner. Challenging the initiation of proceedings, the petitioner filed an original application before the A.P. Administrative Tribunal on the ground that he was acquitted in the criminal case, for the same charges. But, the Tribunal refused to interfere with the departmental enquiry, forcing him to come up with the above writ petition.

5. Heavy reliance was placed by the petitioner upon two decisions of the Supreme Court i.e. (1) G.M. Tank v. State of Gujarat¹ and (2) Captain M. Paul Anthony v. Bharat Gold Mines Ltd². But, the Tribunal distinguished the decision in G.M. Tank's case (1 supra), though it did not advert to decision in Captain Paul Anthony's case (2 supra).

6. In order to appreciate the above contentions, it is necessary to see the charge framed in the Departmental enquiry and also look at the charge framed in the criminal case against the petitioner.

7. The Article of charge framed in the departmental enquiry is as follows:

“Article: Gross misconduct in trying to deceive the State Level Police Recruitment Board, Hyderabad impersonation in the process of recruitment of SCTSs (Civil/ AR/ APSP) of Zone-II (i.e.) Eluru Range on 12.08.2010.”

8. The charge framed against the petitioner in the criminal case was for the offences under Section 419 and 420 IPC.

9. It may be true that the criminal charges and the departmental proceedings arose out of the very same event. But there is a thin line of demarcation between the charge for which the petitioner is sought to be proceeded against in the departmental enquiry. For an offence under Section 420 IPC *mens rea* is important, whereas in the departmental proceedings, the same may not be the criteria for considering the charges.

10. In any case, the petitioner has to face departmental proceedings and cannot shy away from the same. Hence, dismissal of the original application by the Tribunal is in order.

¹ (2006) 5 Supreme Court Cases 446

² AIR 1999 SC 1416.

11. The Writ Petition is, accordingly, dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

December 12, 2017
KTL

