

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

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

* HON'BLE SRI JUSTICE M. GANGA RAO

+ W.A.NO.1813 of 2017

% Date: 11-12-2017

Between:

S. Srinivas Babu, S/o. S.K. Murthy,
Occ: Police Constable,
(now under compulsory retirement)
"B" coy, 1st Bn. TSSP,
Yousufguda, Hyderabad.

..... Appellant

And

1. The Commandant, 1st Bn., TSSP, Yousufguda, Hyderabad.
2. The Inspector General of Police, TSSP, State of Telangana, Surya Bhavan, Hyderabad.
3. The Director General of Police TSSP, State of Telangana, Surya Bhavan, Hyderabad.
4. The State of Telangana, rep. by its Principal Secretary, Home Department, Secretariat, Hyderabad.

... Respondents

! Counsel for the appellant : Mr. M.R. Tagore

^ Counsel for Respondents : G.P. for Services-I (T.G)

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? Cases referred

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.1813 of 2017

JUDGMENT: (Per VRS,J)

Aggrieved by the order of the revisional authority modifying the penalty of dismissal from service into one of compulsory retirement, but not granting him the benefit of reinstatement, a Police Constable has come up with the above writ appeal, after his writ petition got dismissed at the stage of admission.

2. Heard Mr. M.R. Tagore, learned counsel for the appellant.

3. It is seen from the impugned order that the appellant was issued with a charge memo indicating the following delinquency.

“On 02.02.2013 PC 1655 along with his relative Murali Krishna went to Miryalaguda on his CBZ motor cycle bearing No.AP-10 AW-8564 at Hanumanpet, Miryalaguda and noticed one old man aged about 60 years who was counting some amount near a kirana shop, Sri Srinivasa Babu, PC 1655 posed as SI of Police and he along with his friend Murali Krishna checked the said old man found Rs.400/- and one Nokia E-71 x model cell phone. They snatched away said cash and cell phone from old man and fled away on his motor cycle towards Guntur and he removed the SIM and on 03.03.2013 while he was proceeding to Guntur to see his ailing father on his CBZ motor cycle he was caught hold by police near Hanumanpet road Miryalaguda and thereby he involved in Cr.No.39/2013 u/s 419, 382 IPC of Miryalaguda PS, 1 town and he was arrested and produced in the Hon'ble JFCM Miryalaguda on 04.03.2013 and sent to judicial custody.”

4. A bare perusal of the charge extracted above would show that the charge was grave in nature. It appears that an enquiry followed, in which the charge was held proved. Consequently, the Disciplinary Authority imposed the penalty of dismissal from service.

5. A statutory appeal was filed to the Inspector General of Appeals, but the same was also rejected on 11.05.2016. Thereafter, the appellant submitted a revision petition to the Director General of Police on 31.08.2016. Upon perusal of the revision petition, the Director General of Police passed an order modifying the penalty of dismissal into one of compulsory retirement. Contending that he should have been reinstated into service, since the only charge against him was his involvement in criminal case, which has not so far ended in conviction, the appellant filed a writ petition. But finding that on his own request in the revision petition to convert the penalty of dismissal into one of compulsory retirement, the revisional authority had passed such an order, the learned Judge dismissed the writ petition at the admission stage. Therefore, the appellant is before us.

6. The contention of Mr. M.R. Tagore, learned counsel for the appellant is that the only charge framed against the appellant is that he was involved in a criminal case and that the criminal case has not yet come to an end. Therefore, according to the learned counsel, the appellant could not have been imposed even with the penalty of compulsory retirement.

7. We have considered the above submissions. We have extracted the only charge framed against the appellant. His contention is that the only charge framed against him, his involvement in a criminal case, is belied by the manner in which the delinquency is indicated in the charge memo.

8. There is an interesting aspect which the learned Judge appears to have not taken note of. The revision petition filed by the appellant,

though addressed to the Director General of Police, appears to have been handed over to the Hon'ble Home Minister. This could be seen from three paragraphs in the revision petition submitted by the appellant. These paragraphs read as follows:

"In due above said circumstances, I humbly pray the Honourable Home Minister to stop all further proceedings on the charge memo and leave the case for due local police to prove my guilt of committing robbery, if the local police succeeds, conviction will be ordered and which results in my dismissal from service. If I am acquitted after trial under Section 248(1) Cr.P.C. in the criminal case the finding in oral enquiry will not service.

That the Enquiring Officer Mr. Subramanyam, who is also from Andhra Pradesh this is on the false statement of P.W.S. he proved the charged against me and I have been dismissal from service due to which I am racing starving day's.

Hence in view of the facts as visualized supra, I request my Hon'ble Home Minister to set aside the order serve punishment of dismissal from service awarded by the Comndt. 1st Bn. T.S.S.P., Hyderabad or this service punishment please be modified to compulsory retirement from service, so that I may eve my (7) family members from the starving day's and loan taken from landlord."

9. We are not recording a finding to the effect that the appellant was wrong in submitting a revision petition to the Minister. But what induced the Director General of Police to convert the penalty into one of compulsory retirement by taking a sympathetic attitude, is probably the source from which the revision petition was forwarded. In the last but one paragraph of his revision petition, the appellant himself requested the Minister to intervene and convert the penalty of dismissal into one of compulsory retirement. This prayer made in the revision petition, having been conceded by the revisional authority, the appellant cannot have a grievance against the said order to be ventilated in a writ petition. Therefore, the learned Judge was right in dismissing the writ petition. Hence the writ appeal is dismissed.

10. As a sequel, miscellaneous petitions pending in this writ appeal, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J.

M. GANGA RAO, J.

11th December, 2017
Js.



HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.1813 of 2017



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