

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE N.BALAYOGI

+ Writ Petition No.2218 of 2018

% 06-6-2018

N.N.V.S. Prasada Rao, S/o. Late Nageswara Rao,
Aged 56 years, Occ: Senior Assistant,
Prl. Senior Civil Judge's Court, Kovvur,
West Godavari Dist., Andhra Pradesh

... Petitioner

Vs.

\$ The Prl. District Judge, West Godavari Dist.,
Eluru-534 006, Andhra Pradesh

... Respondent

! Counsel for the Petitioner: Mr. K.Ramalingeswara Rao

Counsel for the Respondent: Mr. Swaroop Oorilla,
Standing Counsel for TAPHC

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> Head Note:

? Cases referred:
Nil.

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AND
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Order: (per V.Ramasubramanian, J.)

The petitioner who is working as a Senior Assistant in the Principal Senior Civil Judge's Court, Kovvur, has come up with the above writ petition seeking permission to engage an Advocate to defend himself in the departmental enquiry.

2. Heard Mr. K.Ramalingeswara Rao, learned counsel for the petitioner and Mr. Swaroop Oorilla, learned Standing Counsel for the Registry.

3. The request for engaging the services of an Advocate was rejected on the ground that the Presenting Officer was not a legally qualified person. In addition, the petitioner is a Law Graduate.

4. This Court had an occasion, more than once, to consider the interpretation to be given to Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991. Clause (c) of sub-rule (5) of Rule 20 reads as follows:

“Where the disciplinary authority itself inquires into any articles of charge or appoints a serving or retired Government servant as Inquiring Authority for holding the inquiry into such charge, he shall also by an order appoint serving or retired Government servant or Legal practitioner or a legally trained Government servant as Presenting Officer to present the case in support of the articles of charge;

Provided that no Government servant dealing in his official capacity with the case of inquiry relating to the

person charged or any officer to whom an appeal may be preferred shall be permitted by the inquiring authority to appear on behalf of the person charged before the inquiring authority;

Provided further that the Government servant may take the assistance of any other Government servant posted at any other station, if the inquiring authority having regard to the circumstances of the case and for reasons to be recorded in writing, so permits.”

5. A Government servant is entitled to take the assistance of any other Government servant to present the case on his behalf but he cannot engage a legal practitioner unless the Presenting Officer is one such. It is true that this Court had taken a lenient view and granted as a matter of concession, the facility of engaging the services of a lawyer. But once the rule position is clear, the question of exercise of discretion would depend upon the facts and circumstances of the case. The charges against the petitioner hinge upon a complaint given by a lady co-employee. The petitioner is a Law Graduate. It is now stated that the examination of witnesses is already over and the enquiry stands posted for arguments on both sides. Therefore, this is not a fit case for the grant of concession. Hence, the writ petition is dismissed. The interlocutory applications, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

N.BALAYOGI, J.

06th June, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE N.BALAYOGI

Writ Petition No.2218 of 2018
(per VRS, J.)



06th June, 2018.
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