

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL NO.704 OF 2018

JUDGMENT: (per SK,J)

The appellant is the unsuccessful petitioner in W.P.No.10599 of 2018. The said writ petition was dismissed by a learned Judge of this Court *vide* order dated 04.04.2018. The prayer of the appellant-petitioner in the said writ petition was to declare the action of the Commissioner, Panchayat Raj and Rural Employment, State of Telangana, in issuing Charge Memo dated 14.12.2017 to him, based on the charge sheet bearing No.404 of 2017 dated 25.09.2017 filed by the Assistant Commissioner of Police, Mancherial, Asifabad District, as illegal.

The appellant-petitioner was working as a Divisional Panchayat Raj Officer at Peddapalli Division of Karimnagar District at the relevant time. Crime No.133 of 2015 on the file of Mandamarri Police Station, Mancherial District, was registered against him leading to his suspension from service on 05.09.2015. He was thereafter reinstated in service and posted as the Divisional Panchayat Raj Officer, Asifabad Division, on 28.02.2018. Prior thereto, Charge Memo dated 14.12.2017 was issued by the Commissioner, Panchayat Raj and Rural Employment, State of Telangana, framing four charges against the appellant-petitioner in connection with the incident which formed the basis for the criminal prosecution, relating to the alleged creation of documents by the appellant-petitioner by forging the signatures of higher officers. The main ground of challenge taken by the appellant-petitioner against this Charge Memo before the learned single Judge was that it was based entirely on the material given by the police who had filed a charge sheet in the competent criminal Court in relation to

Crime No.133 of 2015. He also contended that his defence in the criminal proceedings would be prejudiced if the disciplinary proceedings go on at this stage.

The learned single Judge, however, was of the opinion that there could be no bar in law to the simultaneous conduct of criminal and disciplinary proceedings against the employee concerned. Reliance in this regard was placed upon the recent judgment of the Supreme Court in *STATE BANK OF INDIA V/s. NEELAM NAG*¹. The learned Judge further found that no complicated questions of fact or law were involved in the case warranting the staying of the disciplinary proceedings pending the criminal proceedings. It is on the strength of this reasoning that the learned Judge dismissed the writ petition.

Sri Ch.V.Prasad Babu, learned counsel for the appellant-petitioner, would contend that the facts and evidence in the disciplinary proceedings and the criminal proceedings are one and the same and therefore, allowing the disciplinary proceedings to go on at this stage would prejudice the interest of the appellant-petitioner in the criminal proceedings. He would further state that the charges framed against the appellant-petitioner do not even disclose violation of any departmental norms and that this clearly demonstrated that the disciplinary authority blindly adopted the contents of the charge sheet in the criminal case.

We are however not persuaded to agree with these contentions.

In *KARNATAKA SRTC V/ s. M.G.VITTAL RAO*², the Supreme Court summed up the contours of the approach to be adopted by the Court in cases involving simultaneous conduct of disciplinary proceedings and criminal proceedings. The Supreme Court observed as under:

¹ (2016) 9 SCC 491

² (2012) 1 SCC 442

(i) There is no legal bar for both the proceedings to go on simultaneously.

(ii) The only valid ground for claiming that the disciplinary proceedings may be stated would be to ensure that the defence of the employee in the criminal case may not be prejudiced.

But even such grounds would be available only in cases involving complex questions of facts or law.

(iii) Such defence ought not to be permitted to unnecessarily delay the departmental proceedings. The interest of the delinquent officer as well as the employer clearly lies in a prompt conclusion of the disciplinary proceedings.

(iv) Departmental proceedings can go on simultaneously to the criminal trial, except where both the proceedings are based on the same set of facts and the evidence in both the proceedings is common.'

Though Sri Ch.V.Prasad Babu, learned counsel, would contend that the facts and evidence are common in both the proceedings, no material has been placed before this Court to indicate that all the witnesses and documentary evidence in both the proceedings would be identical. Invariably, there would be some amount of overlapping of evidence, as is bound to be, considering the fact that the criminal proceedings and disciplinary proceedings relate to the same incident. However, that by itself is not sufficient to infer that the facts and evidence are common to the extent that the departmental proceedings should be stayed in terms of Clause (iv) in M.G.VITTAL RAO².

Perusal of the charges bears out that there is no mention made therein of any particular rule or departmental norm. However, the same is of no consequence as there would be no rule or norm to the effect that an employee should not resort to forgery of signatures of his superiors. Such conduct invariably falls foul of the conduct rules and there is no necessity for spelling out violation of rules or departmental norms in that regard.

Be it viewed from any angle, we find no grounds to disagree with the opinion expressed by the learned Judge that this is not a fit case for

staying the disciplinary proceedings pending the criminal proceedings. We also find no grounds to set aside the impugned Charge Memo dated 14.12.2017.

The writ appeal therefore fails and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

Date:30.08.2018

PGS/GJ

M.GANGA RAO,J

