

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 N. BALAYOGI

+ WRIT PETITION No.5614 of 2008

%Date:12.06.2018

Between:

D. Satyanarayana S/ o. Abbai,
Age: 42 years, R/ o. Ramachandrapuram,
E G. District.

...Petitioner

Vs.

\$ The Registrar (Administration),
High Court of A.P., High Court Buildings,
Hyderabad and another.

... Respondents

! For Petitioner : Mr.V.Saikumar

^ For Respondents : Mr.B.Raj Kiran

< Gist :

> Head Note :

? Cases Referred :



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AND

THE HON' BLE SRI JUSTICE N. BALAYOGI

WRIT PETITION No.5614 of 2008

ORDER: (per V. Ramasubramanian, J)

Challenging the penalty of removal from service imposed upon him, a former employee of a District Judiciary has come up with the above writ petition.

2. Heard Mr.N.Pavi Prasad, learned counsel for the petitioner and Mr.Bathula Raj Kiran, learned Standing Counsel for the Registry.

3. When the petitioner was working as Lower Division Clerk in the Court of the II Special Judicial II Class Magistrate, he was issued with a charge memo dated 06.05.2003. The charges framed against the petitioner in brief were "(1) that a fine amount of Rs.28,980/- collected from the accused in STCs, CCs and other cases was not remitted into the Bank account and for some of the amounts, fictitious challan numbers and dates were mentioned as if they were remitted into the Bank, (2) that Several Judgments were pending for typing, (3) that there was no maintenance of 7 and 8 criminal Registers and hearing book and (4) that there was vast delay in remitting the fine amounts collected."

4. An enquiry followed in which the prosecution examined three witnesses and marked 144 documents. On behalf of the petitioner, no evidence was let in.

5. After the conclusion of the enquiry, the Enquiry Officer submitted a report dated 24.11.2003. After giving a copy of the enquiry report to the petitioner, the Disciplinary Authority imposed the penalty of removal from service, by a letter dated 19.02.2004. The said order was also confirmed by the Appellate Authority, by an order dated

07.12.2004. Aggrieved by the same, the petitioner came up with the above writ petition, after a delay of about four (4) years.

6. The main contentions of the learned counsel for the petitioner are (1) that the petitioner was lead by the Judicial Officer to believe that he would be exonerated of the charges if he deposited the money; (2) that believing the said representation, the petitioner deposited the amount of Rs.28,980/-; (3) that there was no evidence to prove the misappropriation of the amount and (4) that in the criminal case initiated against the petitioner, he was acquitted and that therefore, the extreme penalty of removal from service was not justified.

7. We have carefully considered the above submissions.

8. This is not a case where the petitioner alleges any violation of the principles of natural justice. This is also not a case where there has been any violation of the procedure prescribed by Rule 20 of the A.P. Civil Services (CCA) Rules.

9. Once it is found that there is no violation of the principles of natural justice in the conduct of the enquiry and that there was no violation of the procedure prescribed by law, then the scope of interference with orders of penalty imposed pursuant to disciplinary proceedings, is extremely circumscribed.

10. It must be pointed out that in this case, the first charge, namely that of not remitting the fine amount collected from the accused over a period of time is a serious charge. The charge was held proved on the basis of the evidence available on record. As a matter of fact, the Department examined the Court Assistant, the IV Additional District Judge and the II Additional Special Judicial II Class Magistrate as PWs. 1 to 3. The Register containing the details of the amounts collected and remitted into the Bank was marked as Ex.P-3 and the relevant pages of the said Register were also marked as Exs.P-4 to P-22. The counter foils

were also marked as Exhibits and it is on the basis of these materials that the Enquiry Officer held charge as proved.

11. The case of the petitioner is that he deposited an amount of Rs.30,340/- on 11.02.2004 as per the advise of the District Judge. If this is true, the least that was required of the petitioner was to get into the witness box to depose. But the petitioner did not even get into the witness box in the course of the disciplinary proceedings. Therefore, his claim remained as a mere statement and did not get elevated to that of evidence. In such circumstances, even the question of examining the proportionality of punishment with reference to the charges does not arise, as the case is one of temporary misappropriation. The acquittal by the criminal Court is hardly of any significance, as it happened subsequently. In any case, the test for a criminal Court is completely different for the test in a departmental enquiry. Therefore, we find no reason to interfere with the impugned order.

12. Hence, the writ petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed. No order as to costs.

V. RAMASUBRAMANIAN, J

N. BALAYOGI, J

June 12, 2018
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