

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

W R I T P E T I T I O N No.3709 OF 2009

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The petitioner is the unsuccessful applicant in O.A.No.2720 of 2002 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. His grievance therein was with regard to the proceedings dated 19.11.2001 of the Deputy Inspector General of Prisons, Rayalaseema Region, Kadapa, whereby he was visited with the punishment of reduction to the rank of Warder from the post of Junior Assistant and the proceedings dated 15.02.2002 of the Director General & Inspector General of Prisons and Correctional Services, Andhra Pradesh, Hyderabad, confirming the said punishment in appeal. By order dated 13.02.2009, the Tribunal dismissed the O.A. holding that no legitimate grounds were made out to absolve the petitioner-applicant of the misconduct attributed to him in the capacity of a Deputy Jailor (In-charge).

The petitioner-applicant, who was initially appointed as a Warder in the year 1983, was promoted as a Junior Assistant on 12.06.1997 and posted at Central Prison, Kadapa. He was subsequently deputed to work at Sub-Jail Grade-II, Chittoor. While working there, he was placed in charge of the post of Deputy Jailor of the said Jail in pursuance of the proceedings dated 07.09.2000 of the Deputy Inspector General of Prisons, Rayalaseema Region, Kadapa, and the consequential proceedings dated 14.09.2000 of the Superintendent, Sub-Jail Grade-II, Chittoor. Disciplinary proceedings were initiated against him at that stage in connection with an untoward incident of escape of ten prisoners from Sub-Jail Grade-II, Chittoor, on 17.09.2000. The enquiry resulted in an adverse finding

against the petitioner-applicant and the Deputy Inspector General of Prisons, Rayalaseema Region, Kadapa, imposed upon him the major penalty of reversion from the cadre of Junior Assistant to that of Warder *vide* proceedings dated 19.11.2001. His appeal met with failure on 15.02.2002 when the Director General & Inspector General of Prisons and Correctional Services, Andhra Pradesh, dismissed the same.

Perusal of the order under challenge reflects that the Tribunal set out at great length the pleadings but when it came to the findings, it merely relied on case law and did not consider the most germane aspect as to what were the duties that were to be discharged by a Deputy Jailor.

In this regard, Sri K.G.Krishna Murthy, learned senior counsel appearing for Sri K.Rama Mohan, learned counsel for the petitioner-applicant, would place reliance on the duties allotted to a Deputy Jailor as per the Prison Manual.

Chapter XII of the Prison Manual deals with the Deputy Jailor and states that in terms of Section 20 of the Prisons Act, 1894, a Deputy Jailor, subject to the orders of the Superintendent, would be competent to perform the duties as set out therein. Rule 174 in the said Chapter stipulates the duties of a Deputy Jailor and the same reads as under:

“174. The following duties appertain to the Deputy Jailor,
viz:-

- (a) Superintendence of the admission and search of prisoners;
- (b) Custody of prisoners property inclusive of private clothing except cash. The jewellery, if any, would rest with the Jailor;
- (c) Examination, weighing and storing of all grain and other rations purchased;
- (d) Supervision of the cleaning of grain, vegetables and other articles of diet;

- (e) Weighing and issue of rations;
 - (f) Maintenance of the ration accounts and ration registers in the prescribed forms;
 - (g) Maintenance of accounts for extra articles purchased by civil debtors;
 - (h) Keeping of the godowns, etc., in proper order and proper and systematic arrangement of all stores in the godowns;
 - (i) To be incharge of all factories, production maintenance of task boards, procuring of sufficient labour for factory work, from the Jailor, who is incharge of assigning labour to prisoners;
 - (j) Charge of sales room;
 - (k) Removal of private clothing from prisoners on their admission; issue of jail clothing and bedding; correct marking of "Aluminium breast tickets" and placing of prisoners in quarantine soon after their admission;
 - (l) Custody of prisoners' private clothing and jail clothing stores; and issue of fresh clothing to prisoners;
 - (m) Maintenance of the clothing registers in the prescribed forms;
 - (n) Conducting prisoners' interviews if conversant with the language spoken at the interview;
 - (o) Supervision of punishment diet;
 - (p) Supervision of the jail library;
 - (q) Supervision of the dairy and the maintenance of its accounts;
 - (r) Charge of the quarantine and of the civil and leper annexes where such annexes exist;
 - (s) Censoring of letters addressed to and sent by the prisoners and the disposal of such letters under the orders of the Superintendent;
- NOTE:- The letters shall be placed before the Superintendent after being censored, for his orders regarding their disposal.
- (t) Incharge of Arms, ammunition and accountrements, their maintenance and safety, and

(u) Other duties which the Superintendent may impose in writing.”

As Clause (u) mentions that any other duties may also be imposed upon a Deputy Jailor by the Superintendent in writing, we called upon the learned Government Pleader for Services, State of Andhra Pradesh, *vide* order dated 27.09.2018, to ascertain as to whether any additional duties were prescribed by the Superintendent in writing to be discharged by the petitioner-applicant in the capacity of the Deputy Jailor, Sub-Jail Grade-II, Chittoor.

Learned Government Pleader would report today that no such additional duties were prescribed.

Perusal of the duties ascribed to a Deputy Jailor in terms of Rule 174 set out *supra* clearly demonstrates that a Deputy Jailor is not in charge of the custody of the prisoners after their admission. As per Clause (a) thereof, he is expected to superintend the admission and search of the prisoners while Clause (b) states that he is in charge of the custody of the prisoners' property. There is no Clause visiting upon him the responsibility of safeguarding the custody of the prisoners themselves. That being so, the petitioner-applicant cannot be picked upon for the escape of ten prisoners when it was not part of his duties to supervise their custody or movements as an in-charge Deputy Jailor. Losing sight of this crucial aspect, the authorities made him a scapegoat.

On the above analysis, we are of the opinion that the punishment imposed upon the petitioner-applicant by the disciplinary authority, as confirmed by the appellate authority and upheld by the Tribunal, is unjust and cannot be maintained in the light of the duties cast upon a Deputy Jailor.

The writ petition is accordingly allowed setting aside the order of the Tribunal dated 13.02.2009 in O.A.No.2720 of 2002 as well as the proceedings dated 19.11.2001 of the Deputy Inspector General of Prisons, Rayalaseema Region, Kadapa, and the proceedings dated 15.02.2002 of the Director General & Inspector General of Prisons and Correctional Services, Andhra Pradesh, Hyderabad.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

M. GANGA RAO, J

Date: 04.10.2018
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