

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.5886 of 2019

ORDER:

This writ petition is filed seeking the following relief :-

“.... to issue a Writ, Order or Direction more particularly one in the nature of a Writ of Mandamus declaring the action of the 2nd Respondent herein in rejecting the application filed by the Petitioner under Rule 20(5)(c) of TSCS (CC&A) Rules, 1991, for appointment of legal practitioner as illegal, arbitrary, unconstitutional and against principles of natural justice and consequently set aside the same about allow the Petitioner herein to appoint a legal practitioner to defend his case before the disciplinary authority”.

Heard Mr.V.Prabhakar, learned counsel for petitioner and the learned Government Pleader for Services-I.

It has been contended by the petitioner that he is working as Assistant Commissioner of Police and the disciplinary authority had initiated disciplinary proceedings against him followed by a regular departmental enquiry being ordered against him. He also submits that the disciplinary authority has also appointed Presenting officer, who is a Deputy Commissioner of Police, a well trained officer in departmental proceedings and also a law graduate. Since the allegations levelled against the petitioner are grave in nature, the petitioner has requested the disciplinary authority to permit him to engage legal practitioner as defence assistant under Rule 20(5) (c) of the Andhra Pradesh Civil Services (Classification, Conduct and Appeal) Rules, 1991 (for short 'the Rules'). But, the request of the petitioner was rejected vide proceedings dated 14.02.2019 on the

ground that the Rules do not permit engaging legal practitioner as defence assistant.

Learned counsel for petitioner has relied upon the judgment rendered by this Court in W.P.Nos.34363 and 35536 of 2017 dated 17.11.2017, wherein the Division Bench of this Court in principle has negatived the request of the petitioner therein to engage legal practitioner, but, however, as a concession permitted the petitioner therein to engage legal practitioner as defence assistant.

Learned counsel for petitioner contended that appropriate orders be passed in the writ petition directing the respondents to permit the petitioner to engage legal practitioner as defence assistant by setting aside the impugned rejection order.

Learned Government Pleader appearing for respondents has contended that as per Rules, if a Presenting Officer is a Deputy Commissioner of Police and not a legal practitioner, Rule 20 provides engaging a legal practitioner. Admittedly, the Presenting Officer is a law graduate. Therefore, the petitioner cannot be permitted to engage legal practitioner as defence assistant. Therefore, there are no merits in the writ petition and the same is liable to be set aside.

This Court, having considered the rival submissions, is of the considered view that since the allegations levelled against the petitioner are grave in nature and the Presenting Officer is a graduate in law, as a concession, the petitioner can be permitted to engage legal practitioner as defence assistant. Therefore, this Court is of the considered view that the impugned rejection order is not in accordance with the Rules. Since the Presenting Officer is a

law graduate and the charges levelled against the petitioner are grave in nature, the ends of justice would be met if the petitioner is permitted to engage legal practitioner as defence assistant.

The writ petition is accordingly allowed directing the respondents to permit the petitioner to engage legal practitioner as defence assistant in the departmental proceedings. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 26-03-2019
Prv



