

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION No.12771 of 2019

Date: 18.12.2019

BETWEEN

T. Niroop.

... PETITIONER

AND

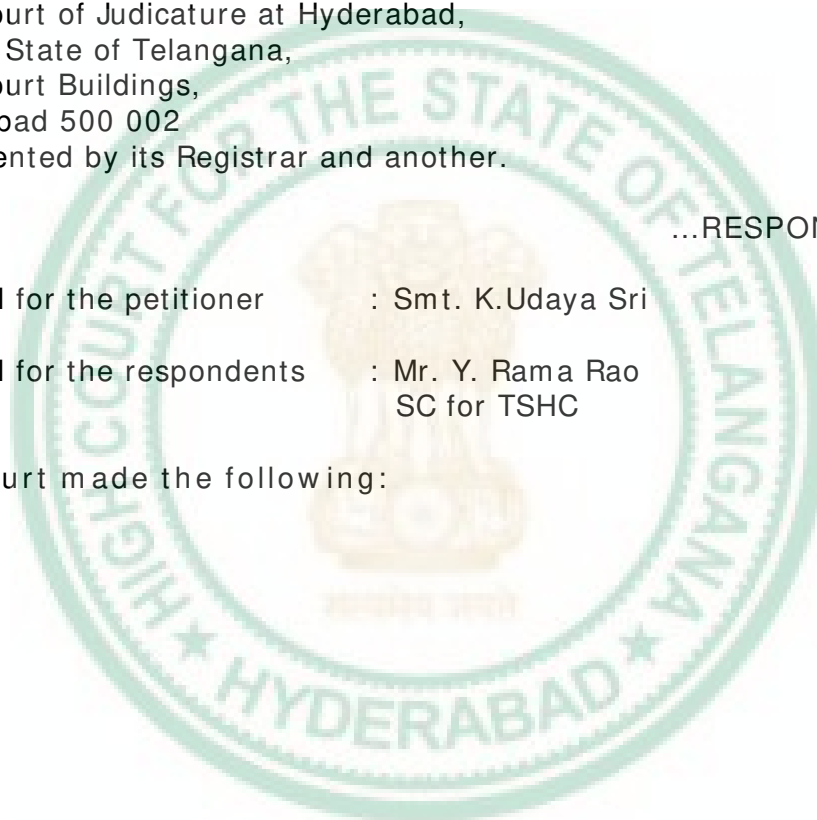
High Court of Judicature at Hyderabad,
For the State of Telangana,
High Court Buildings,
Hyderabad 500 002
Represented by its Registrar and another.

...RESPONDENTS

Counsel for the petitioner : Smt. K.Udaya Sri

Counsel for the respondents : Mr. Y. Rama Rao
SC for TSHC

The Court made the following:



ORDER: { Per the Hon'ble the Chief Justice Sri Justice Raghvendra Singh Chauhan}

The petitioner has challenged the legality of the order dated 25.11.2017 passed by the Principal District and Sessions Judge, Medak, whereby the disciplinary authority has imposed punishment of withholding of two annual grade increments of pay with cumulative effect for three years i.e. till November 2020, upon the petitioner.

2. Briefly the facts of the case are that the petitioner's father, Mr. T. Narahari, was working as a Junior Assistant in the subordinate Court. However, the petitioner's father died in harness in February 2009. The petitioner was appointed on the post of the Junior Assistant by order dated 07.05.2010. According to the petitioner, he had certain difference with one Mr. Anjaneyulu, who is the husband of Smt. Padmavathi. Therefore, on 01.03.2014, the petitioner filed a complaint petition against Mr. Anjaneyulu, for offences under Sections 324 and 326 of the Indian Penal Code. Furthermore, according to the petitioner, as a counter-blast, Smt. Padmavathi filed a complaint, against the petitioner, in the police station for offences under Sections 354(D), 506 and 504 IPC. The said complaint was registered as Cr.No.145 of 2014 by the Ramachandrapuram Police Station. During the pendency of the trial in the criminal case, since it was allegedly a case of sexual harassment meted to women, at the work place, the Internal Committee on Sexual Harassment of Women at the Work Place, conducted an enquiry and submitted a report on 03.03.2015. The Committee recommended that the petitioner, the delinquent officer, should be admonished; it further recommended that the

petitioner should not be posted for three years at the place where Smt. Padmavathi is posted.

3. At the end of the trial, the learned trial Court convicted the petitioner for offence under Sections 354(D) IPC and sentenced him to undergo simple imprisonment for two years, and imposed with a fine of Rs.3,000/- and further directed to suffer imprisonment for three months in default thereof. Likewise, the petitioner was sentenced to undergo simple imprisonment for one year each for the offences under Sections 506 and 504 IPC by judgment dated 17.02.2016.

4. Since the petitioner was convicted in a criminal case by order dated 17.02.2016, he was placed under suspension under Rule 8 of the Andhra Pradesh Civil Service (Classification, Control and Appeal) Rules, 1991 (henceforth referred to as Rules). Subsequently, on 10.03.2016, the petitioner, the delinquent officer, was furnished with articles of charges. Immediately, he filed his reply on 06.09.2016. During the course of pendency of the departmental enquiry, the petitioner filed an appeal against the conviction order. By judgment dated 18.1.2016, the learned Appellate Court set aside the conviction, and acquitted the petitioner.

5. Having been acquitted in the criminal case, on 30.12.2016, the petitioner filed a representation seeking revocation of his suspension order. Subsequently, by order dated 10.01.2017, the petitioner was reinstated into service with effect from 17.02.2016.

6. Notwithstanding his reinstatement, the departmental enquiry was conducted against the petitioner. After the conclusion of the

departmental enquiry, the enquiry officer found the petitioner guilty of the alleged misconduct. By order dated 25.11.2017, as mentioned hereinabove, the disciplinary authority imposed the punishment upon the petitioner. Hence, the present writ petition before this Court.

7. Smt.K.Udaya Sri, the learned Counsel for the petitioner submits that prior to the passing of the impugned order, no second show cause notice was issued to the petitioner brining to his notice the enquiry report and seeking his reply to the same. Therefore, the procedure established by law has been violated by the disciplinary authority. Secondly, the fact that no second show cause notice was issued to the petitioner has been admitted by the respondent in their counter. Hence, the impugned order deserves to be set aside.

8. This Court has asked a pointed query to the learned counsel for the respondent: whether any second show cause notice was issued to the petitioner prior to the passing of the impugned order or not? To this query, the learned counsel has given a vague answer. For, he claims a copy of the enquiry report was sent to the petitioner. However, he is not in a position to establish the said fact. Thus, obviously, the second show cause notice, as required by law, was not issued to the petitioner prior to the passing of the impugned order.

9. Needless to say, once a procedure has been established by law, the same must be followed by the respondent. Since, the second show cause notice was not issued to the petitioner, this Court has no other option but to set aside the impugned order, and to remand the case

back to the respondents to re-initiate the departmental proceedings from the stage of issuance of the second show cause notice. The respondents are directed to complete the proceedings within a period of two (2) months from the date of receipt of a certified copy of this order.

For the reasons stated above, the writ petition is, hereby allowed. As a sequel, the miscellaneous petitions, pending if any, shall stand closed. There shall be no order as to cost.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

December 18, 2019
DSK

