HONOURABLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN

AND

HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.39765 OF 2012

ORDER: (ORAL) (Per Hon'ble the Chief Justice Sri Thottathil B.Radhakrishnan)

This is a writ petition filed challenging imposition of punishment of dismissal and rejection of representations against the proposal to do so.

2. We have heard learned counsel for the writ petitioner and learned counsel for the respondent.

3. The writ petitioner joined service of the judicial department as stenographer in March 1988. Thereafter, he was selected and appointed as Court Master in the High Court of Andhra Pradesh in April 1995. He worked there till March 2003. Thereafter, he was appointed as Junior Civil Judge, by transfer, in April 2003. While continuing as such, in different stations, on being transferred, disciplinary proceedings were initiated against him by the High Court after he was repatriated as Court Master from the judicial service to the High Court. The disciplinary proceedings commenced with issuance of show cause notice and by following due procedure, an enquiry was conducted resulting in the allegations being found against the delinquent. While we say that due process was followed, we say so, because there is no challenge to the procedure carried out through

the disciplinary enquiry. There is no fault demonstrated with reference to the rules or principles governing the disciplinary enquiry. The conclusions of the enquiry culminated in the matter being looked into by the Chief Justice, who is the appointing authority. The then Chief Justice directed issuance of show cause on the findings. The petitioner represented explaining his stand in response to the contents of the enquiry report. The then Acting Chief Justice considered the enquiry report in the light of the representation of the petitioner and also his plea that he may be provided relief against the disciplinary proceedings, at least, on compassionate and mercy grounds. The Acting Chief Justice, as the appointing authority, concluded that the delinquent is to be imposed with the punishment of dismissal from service. Such punishment was imposed by the Acting Chief Justice. It was communicated to the officer by the Registrar General by order of the Chief Justice. Thus, due process was completed.

4. The learned counsel for the petitioner argued before us that since the petitioner was repatriated to the High Court as a Court Master from the post of Junior Civil Judge after the allegations were levelled against him, the proceedings initiated by the High Court thereafter and the enquiry leading to imposition of punishment of dismissal needs to be viewed from the angle of him having been subjected to what is termed by the learned counsel as double jeopardy. Keeping aside the nicety of the concept of double jeopardy applying

ipso facto or in toto to the service law sector, we may notice that such plea does not even arise for consideration because even according to the petitioner, he was repatriated to the High Court. He has never projected that repatriation as a stigmatic one even in the writ petition or in his stand before the disciplinary authority. Therefore, that question does not arise for decision at all.

5. The learned counsel for the petitioner points out that considering the entire materials on record among different charges, the maximum that could be found was, the delinquent had not disclosed to the department the fact that a Chevrolet Tavera car was bought in the name of his wife and was being operated as a Maxi Cab. Beyond that, according to the learned counsel for the petitioner, there is no merit in the findings in the enquiry. We have thoroughly examined the enquiry report and all proceedings of the disciplinary file, which has been placed before us. The officer was levelled with four specific charges. They read as follows:

> "**Charge No.1:**
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> That you Sri K. Rambabu, Court Master, High Court of A.P., while working as VII Metropolitan Magistrate, Cyberabad at Rajendranagar, Ranga Reddy district, have purchased a Chevrolet Tavera P10 A-BS III vehicle on 20.12.2007 from M/s. Orange Auto Private Limited, Banjarahills, Hyderabad, in the name of your spouse viz Ms.K.Aruna for an amount of Rs.7,23,619/- and registered the same, as Maxi Cab with registration No.AP 11 X 7465 on 08.01.2008 without submitting any information, about the purchase of the said

vehicle to the High Court, which act is contravention of Rule 9(2)(7) of A.P. Civil Services (Conduct) Rule 1964, which act of yours if proved or established would amount to a grave misconduct and unbecoming of a Judicial Officer within the meaning of Rule-3 of the A.P. Civil Services (Conduct) Rules, 1964.

Charge No.2:

That you Sri K. Rambabu, Court Master, High Court of A.P., while working as VII Metropolitan Magistrate, Cyberabad at Rajendranagar, Ranga Reddy district, have purchased a Chevrolet Tavera in the name of your spouse and registered as Maxi Cab for business against conduct Rules, more particularly for getting extra income, by hiring the vehicle in contravention of Rule 10 of the A.P. Civil Services (Conduct) Rules 1964, which act of yours if proved or established would amount to grave misconduct and unbecoming of a Judicial Officer within the meaning of Rule-3 of the A.P. Civil Services (Conduct) Rules, 1964.

Charge No.3:

That you Sri K. Rambabu, Court Master, High Court of A.P., while working as VII Metropolitan Magistrate, Cyberabad at Rajendranagar, Ranga Reddy district;

a) used to earn illegally by accepting bribe from litigant public and advocates and started accumulation of money by deposition frequently i.e., 4 to 8 time in a month, during the period from January 2007 to March 2008, into your own Savings Bank Account bearing No.867810110000804 maintained with Bank of India, Attapur branch, Hyderabad and the said amounts accumulated Rs.10,86,055/- as on 15-03-2008.

b) You also deposited money in the name of your eldest daughter Ms.Keesari Swathi, in the account bearing A/c.No.1991 with A.P. Grameena Vikas Bank, Palair Branch, Khammam district, and the said amount, accumulated to Rs.3,57,885 as on 22.3.2008.

c) You also deposited Rs.1,20,440/- to the credit of your loan account bearing No.86786051000006 obtained from Bank of India, Attapur Branch, Rajendrangar in connection with purchase of Maruti Car (thus your total earning lying in your savings bank account is Rs.9,37,724/- as on 15.3.2008;)

That thus you indulged in corrupt activities and earned income from your unknown sources as a Junior Civil Judge, which acts of yours if proved or established would amount to grave misconduct and unbecoming of a Judicial Officer within the meaning of Rule-3 of the A.P. Civil Services (Conduct) Rules, 1964.

Charge No.4:

That you Sri K. Rambabu, Court Master, High Court of A.P., while working as Junior Civil Judge acquired immovable property, in your spouse name i.e. Smt.K.Aruna, bearing house No.12-1-348/1, admeasuring 167 sq. yds (139.62 mts) vide sale deed No.1019, dt.21.2.2007, Indraprastha Colony, Fathullahguda Village, Bandlaguda, Ranga Reddy district; that neither you disclosed the said fact to the High Court in your property statement submitted for the year 2007, in the month of January 2008 nor obtained any permission for purchase of said immovable property in contravention to Rule 9(1)(7) of A.P. Civil Services (Conduct) Rules 1964 and suppressed the factum of acquiring of said immovable property in the name of your spouse, which act of yours if proved or established would amount to grave misconduct and unbecoming of a Judicial Officer within the meaning of Rule-3 of the A.P. Civil Services (Conduct) Rules, 1964."

6. While the attack is on the correctness or otherwise of the findings of the enquiry officer on merits, depending upon the material evidence on record, the fact of the matter remains that the enquiry did not commence on the cuff, though the petitioner's learned counsel is justified in saying that there was an e-mail communication by a person without disclosing his identity to the Anti Corruption Bureau; hereinafter referred to 'ACB'. That input to the ACB was forwarded to the Registrar (Vigilance), who was directed by the Chief Justice to conduct a preliminary enquiry. Materials were on record in the enquiry regarding different bank accounts and funds available with the petitioner, his wife as well as the material wealth including in the form of a Chevrolet Tavera car for which loan was being maintained and paid off by the petitioner. It was also noted that the amounts were being available with the daughter of the delinquent who was then studying for Engineering. It also came out during the enquiry that there were transactions in immovable properties and the delinquent came into possession of fairly large sum of money, even going by his own showing, but, did not even account for that. The situation in hand was one where the officer was found to possess assets and funds disproportionately to his known sources of income. On elaborate consideration of the materials on record, particularly, documentary evidence, the disciplinary proceedings concluded that the delinquent

was guilty of the charges. Reverting to the final communication given by the Registrar General of the High Court to the delinquent, it can be seen that the Acting Chief Justice considered the enquiry report, written representation of the charged officer, the findings recorded against him in the enquiry report and the explanation of the charged officer to the show cause notice to him as to why major penalty of dismissal shall not be imposed against him. The consideration made by the Acting Chief Justice is clearly reflected in the elaborate presentation "as part of the order, which was ultimately communicated through the Registrar General," it is the Acting Chief Justice, who imposed the penalty of dismissal from service. We, therefore, repel the argument addressed on behalf of the petitioner that dismissal from service was imposed by the Registrar General, who had no authority to do it. It is not the Registrar General, but the Acting Chief Justice as appointing authority, imposed the penalty of dismissal from service.

7. We now proceed to consider the ultimate submission on behalf of the petitioner that on the totality of the facts and circumstances, a lenient view may be taken so that the punishment of dismissal imposed on the charged officer be converted as punishment for compulsory retirement. We have bestowed our anxious consideration in terms of law, equitable considerations and also human resources management in institutions like the judiciary, purity of the institution where the delinquent worked and the amount

of unexplained wealth that was found during the enquiry, strongly dissuades not only our head but also our heart from acceding to the persuasive argument on behalf of the petitioner to convert the order of dismissal to be one for compulsory retirement. On the totality of the material evidence on record, which was dealt with by all the authorities including the Chief Justice, as appointing authority, we cannot, but, say that there is no room for us under Article 226 of the Constitution of India to treat this as an eminently fit case where we would say that the punishment imposed is shockingly disproportionate to the gravity of the charges levelled and found as against the delinquent. We agree with the learned counsel for the respondent in that regard.

8. For the aforesaid reasons, this Writ Petition fails and is accordingly dismissed.

As a sequel thereto, Miscellaneous Petitions, if any pending, in the writ petition stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

March 25, 2019

PV/DSK