

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.13591 OF 2019

Date: 30.08.2019

Between:

N. Devender Reddy S/o.Late Ramakrishna Reddy
Aged 57 yrs, Deputy Executive Engineer (Under suspension),
MB Intra Nirmal & Executive Engineer (FAC),
MB Intra Division, Nirmal, R/o.Nirmal.

.....Petitioner

And

State of Telangana,
Rep., by its Principal Secretary,
Rural Water Supply & Sanitation Department,
Secretariat, T.S Hyderabad & others.

.....Respondents



The Court made the following:

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.13591 OF 2019

ORDER:

Heard learned counsel for petitioner and learned Government Pleader for Services.

2. Petitioner earlier worked as Deputy Executive Engineer in the MB Sub-Division, Utnoor. It appears there are certain allegations of corruption and mis-appropriation of public funds while working in Utnoor and making the contractor benefit illegally. Petitioner was transferred from Utnoor to Nirmal Sub-Division on 23.01.2018, where he worked till the date of suspension from service. The ACB seems to have conducted raid and based on the raid conducted in the year 2016, in Crime No.4/ACB-ADB/2018 dated 24.07.2018 petitioner was shown as A.1. A preliminary report was submitted to the Government by ACB on 23.03.2019. The ACB suggested to place the petitioner under suspension to conduct further investigation. Based on the report of ACB, Government directed the Engineer-in-Chief to place the petitioner under suspension. Accordingly on 28.06.2019, petitioner was suspended.

3. According to learned counsel for petitioner the order of suspension is vitiated on the following grounds :

(i) There is no independent application of mind by the competent authority before placing the petitioner under suspension. The Engineer-in-chief mechanically acted on the directions of Government to place the petitioner under suspension. Therefore, the same is ex-facie illegal.

(ii) Petitioner is not working in the same station where the alleged illegalities were stated to have been committed and was transferred out of place much prior to registration of crime by ACB. Therefore, the question of tampering of record or influencing the witnesses in Utnoor by the petitioner does not arise. Further as petitioner was already transferred, there is no need for placing the petitioner under suspension.

(iii) The order of suspension is also vitiated on the ground of selective suspension, while petitioner is placed under suspension no action is taken against Assistant Engineer and MPDO against whom allegations are made, where bills were passed by the MPDO and check measurement was undertaken. Therefore, they are also equally responsible.

4. In support of his contention learned counsel placed reliance on the decision of Division Bench of this Court in **D. Ramesh Sinha Vs Cadre Authority for Key Personnel of Co-operative Central Banks/Apex Bank, Hyderabad**¹.

5. In the said decision the Division Bench held that the competent authority has to apply his mind and arrive at a conclusion, the desirability or otherwise of placing an employee under suspension, but cannot merely act upon the directions issued by the higher authority. The Division Bench also noticed that since the appellants therein were transferred, there was no justification to place the appellants therein under suspension.

6. It is not in dispute that petitioner was not arrested and was not in custody. Infact petitioner was transferred out of place where,

¹ 2002 Suppl.(2) ALD 687 (DB)

the alleged illegalities have taken place much prior to ACB registering the crime. Therefore, it is not a case where petitioner was found committing some illegalities at the present place of work. Since petitioner is not working in the same station, the question of influencing the witnesses or tampering the record also does not arise. Further crime was registered on 01.07.2018 but apparently, so far there is no progress in the investigation and the same is not finalized. Even from the preliminary report it appears that ACB was not aware that petitioner was not working in the same station. Therefore, ACB suggested placing the petitioner under suspension for further investigation without any hurdles. As petitioner is not working in the same station, the question of he creating hurdles in the process of investigation by ACB does not arise.

7. Having regard to the principle laid down by the Division Bench in **D.Ramesh Sinha** case and the facts noted above, I am of the considered opinion that suspension from service is wholly unwarranted and the same is liable to be set aside and is accordingly set aside.

8. Writ Petition is accordingly allowed. However, it is open to the respondents, to transfer the petitioner to a non-focal post. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO, J

30th August, 2019
Rds

Note : Issue c.c. in five days