

HIGH COURT FOR THE STATE OF TELANGANA

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND**

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

W.P.No.18261 of 2019

Date: 23.08.2019

Between:

S. Shaker

...Petitioner

and

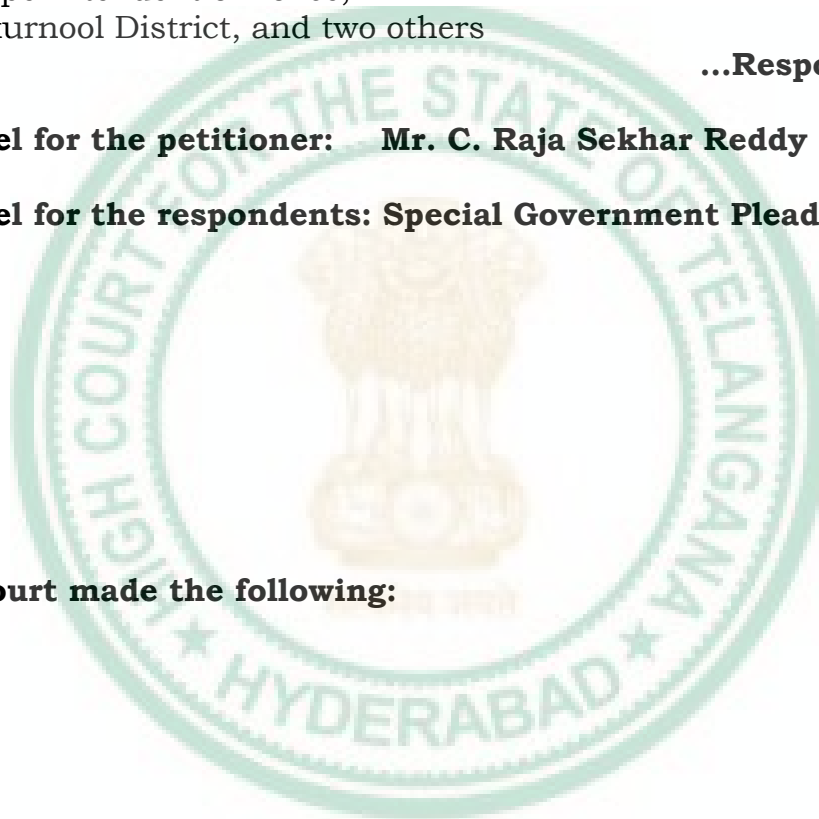
The Superintendent of Police,
Nagarkurnool District, and two others

...Respondents

Counsel for the petitioner: Mr. C. Raja Sekhar Reddy

Counsel for the respondents: Special Government Pleader

The Court made the following:



ORDER: *(per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)*

Mr. S. Shaker, the petitioner, has challenged the legality of the order dated 28.10.2015, passed by the Andhra Pradesh Administrative Tribunal at Hyderabad, in O.A.No.2656 of 2012, whereby the learned Tribunal has dismissed the O.A. filed by him challenging the punishment of postponement of increment for two years with effect on future increments and pension, and treating the absence period as 'Not on Duty'.

Briefly the facts of the case are that the petitioner was working with the Police Department. While he was working at the Lingala Police Station, he was instructed to report before the Sub-Inspector of Police, Peddamandadi. Accordingly, on 07.04.1997, he reported before the Sub-Inspector of Police and attended the guard duty at the Peddamandadi Police Station. On 08.04.1997, he fell sick due to jaundice and severe fever. Therefore, he requested the Sub-Inspector of Police to grant leave or issue sick passport, but the Sub-Inspector of Police refused his request. In the meanwhile, the petitioner received information that his father was serious. Therefore, on 08.04.1997, he went to his native place and had taken his father to Mahabubnagar Town to get treatment from Psychiatrist. Simultaneously, he also took treatment for jaundice and fever from 08.04.1997 to 05.05.1997. On 06.05.1997, he came to know that the Sub-Inspector of Police, Peddamandadi, through the Circle Inspector of Police, Kothakota, had requested the respondent No.1 to declare the

petitioner as “deserter”. Immediately, the petitioner approached the respondent No.1 and requested to take him into duty. By that time, the deserter order was not issued. The respondent No.1 attached the petitioner to R.I.A.R. at Mahabubnagar. Accordingly, he reported at R.I.A.R., Mahabubnagar, and attended the duty. In the meanwhile, the petitioner received the deserter order on 01.07.1997. He was also issued a charge memo. On 12.08.1997, he submitted his explanation to the said charge memo. He appeared before the District Forum, Mahabubnagar, for executing the bailable warrants and non-bailable warrants. On 12.08.1997 and 13.08.1997, he searched for the concerned persons to execute the said warrants, but they were not available. On 14.08.1997, he met the President, District Forum, Mahabubnagar, and explained the facts for not executing the warrants. Meanwhile, he again fell sick and took treatment till 24.08.1997. Thereafter, he reported for duty at R.I.A.R., Mahabubnagar. On 27.08.1997, he was given posting at the Lingala Police Station. However, without taking into consideration the above facts, the respondent No.1 issued the proceedings dated 17.08.1999 awarding the punishment of postponement of two increments with effect on future increments and pension, and treating the absence period from 08.04.1997 to 06.05.1997 and from 12.08.1997 to 26.08.1997 as ‘Not on Duty’.

Since the petitioner was aggrieved by the order dated 17.08.1999, he filed an appeal before the Deputy Inspector General of Police, the respondent No.2. However, the said appeal was dismissed *inter alia* on the ground that it was time barred. Therefore, the petitioner filed the present O.A. before the learned Tribunal. The petitioner has also filed O.A.No.2618 of 2012 challenging the punishment order. By common order dated 28.10.2015, the learned Tribunal dismissed both the O.As. Hence, this writ petition before this Court.

The learned counsel for the petitioner has vehemently contended that merely because of his unauthorized absence of 64 days, the punishment of postponement of increment for two years with effect on future increments and pension is too harsh a punishment. Therefore, the punishment imposed is highly disproportionate to the alleged misconduct. Hence, the learned Tribunal ought to have allowed the O.A. and reduced the punishment to a minor one.

Heard the learned counsel for the petitioner, and perused the impugned order.

Undoubtedly, the petitioner belongs to a disciplinary force like the police force. As a member of the police force, the first and the foremost duty of the petitioner is to maintain the discipline of the force. Admittedly, without informing his superior officer, the petitioner had left the place of duty on 08.04.1997 and did not report back till 06.05.1997. The

petitioner again absented from duty without any intimation from 12.08.1997 to 26.08.1997. On 27.08.1997, he reported to duty. Both the explanations offered by the petitioner, that due to fever and jaundice and the seriousness of his father, he could not inform the superior officer during this period about the reasons of his absence, are merely excuses. For, even if some one has suffered fever, he has ample opportunities of informing the superior officers about the reasons for his absence. However, for the reasons best known to the petitioner, he chose not to inform his superior officers with regard to the reasons for his absence from duty.

Since the petitioner has violated the discipline of the force, the respondents were well justified in imposing the punishment. Therefore, this Court does not find that the punishment is a disproportionate one.

For the reasons stated above, this Court does not find any illegality or perversity in the order passed by the learned Tribunal. This writ petition, being devoid of any merit, is hereby dismissed. There shall be no order as to costs.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(Dr. SHAMEEM AKTHER, J)

Date: 23.08.2019
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