

HIGH COURT FOR THE STATE OF TELANGANA

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

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

W.P.No.36836 of 2017

Date: 06.06.2019

Between:

K. Praveen Kumar

...Petitioner

and

The Commissioner of Police,
Hyderabad City, Hyderabad and four others

...Respondents

Counsel for the petitioner: Mr. B. Ramulu

Counsel for the respondents: G.P for Services

The Court made the following:

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

The petitioner is aggrieved by the order dated 23.08.2012, passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, whereby the learned Tribunal has dismissed O.A.No.11269 of 2009 filed by him, challenging his termination order dated 10.04.2007, and the order dated 26.10.2007 and the order dated 15.07.2009 passed by the appellate and revisional authorities respectively.

Briefly, the facts of the case are that on 15.02.1992, the petitioner was appointed as a Police Constable (P.C.No.4488) in the police department. During the course of his tenure, on 27.09.2003, one K. Chennamallappa presented a report before the police, against the petitioner and one S.Namdev, wherein he claimed that both the petitioner, and Mr.S.Namdev had entered his house, had assaulted Smt.Y.Lakshmi, and other inmates of the house, namely, Kum. P. Pallavi and J. Sai Prasad. These two persons had forcibly taken away two gold chains, one bracelet and four gold rings from the possession of P. Pallavi, one gold chain and one gold ring from the possession of Y. Lakshmi, and one ring and net cash of Rs.5,000/- from him, and net cash of Rs.13,000/- from the almirah kept in the house. They had also taken away one gold chain and net cash of Rs.2,000/- from the possession of J. Sai Prasad, by putting all these persons in fear of death. The said report was registered as Crime No.1480/2003 for the offence under Section 392 I.P.C.

Since a criminal case had been registered against the petitioner, a departmental enquiry was held against him. Eventually, by order dated 10.04.2007, his services were terminated by the department. Aggrieved by the termination order, the petitioner preferred an appeal before the Director General of Police, Government of Andhra Pradesh, the respondent No.2. However, by order dated 26.10.2007, the respondent No.2 dismissed the appeal. Therefore, the petitioner preferred a revision petition before the Government. However, even the said revision was dismissed by order dated 15.07.2009. Hence, the petitioner filed an Original Application before the learned Tribunal. But by order dated 23.08.2012, the learned Tribunal has dismissed the Original Application. Hence, this writ petition before this Court.

Mr.B.Ramulu, the learned counsel for the petitioner, vehemently contended that both the criminal trial as well as the departmental enquiry were based on the same set of facts and on the same set of witnesses. Since the petitioner was acquitted by the learned trial Court by its judgment dated 25.01.2005, the department was not justified in terminating the services of the petitioner. In order to buttress this plea, the learned counsel has relied in the case of ***G.M. Tank v. State of Gujarat and others***¹.

¹ (2006) 5 Supreme Court Cases 446

Heard the learned counsel for the petitioner and perused the documents submitted by the petitioner before this Court.

A bare perusal of the documents submitted before this Court, especially, the judgment dated 25.01.2005, passed by the learned Criminal Court, clearly reveals that the learned Criminal Court had acquitted the petitioner for the reason that the complainant – K. Chennamallappa (P.W.1) and Y.Lakshmi (P.W.2), the star witnesses of the prosecution, had turned hostile. In fact, Y.Lakshmi (P.W.2) had claimed that the accused persons were not the persons, who had entered her house and had committed robbery. Since the complainant and Y.Lakshmi (P.W.2) had turned hostile, and had not supported the case of the prosecution, the learned trial Court had no other option, but to acquit the accused and the co-accused person.

However, before the Enquiry Officer, Smt.Y.Lakshmi had clearly identified the two strangers, who had entered the house, as K. Praveen Kumar, Police Constable i.e., the petitioner and Mr. Namdev of Gandhi Nagar, Hyderabad. She had further claimed that although Namdev is the person, who had threatened the inmates of the house with dire consequences, and had forcibly taken away the gold ornaments, nonetheless the petitioner was present and had accompanied Namdev. She further claimed that it is Chennamallappa, who had lodged the complaint before the

police station. She further admitted that since both Chennamallappa and she had not identified the accused persons before the learned trial Court, both the accused persons were eventually acquitted by the learned trial Court. She further deposed before the Enquiry Officer that after committing the offence, the said two persons ran away after keeping them in the house, and by bolting the door from outside. However, they got the door opened and tried to catch them. While Namdev fled away on a motorbike, the petitioner was caught. Thus, according to this witness, the petitioner was caught by her and by her family members at the scene of the crime itself. Thus, it is obvious that she had identified the petitioner as one of the perpetrators of the crime.

Even Chennamallappa, who was examined as a witness by the department, claims that Y.N. Lakshmi is his friend's sister, and belongs to his District. He further claims that on the fateful day at about 2.30 or 3.00 P.M., the said Lakshmi called him on his cell phone and requested him to immediately rush to her house. He further claims that when he reached the house, two strangers were there, who were later identified as K. Praveen Kumar, Police Constable, who was the person in half uniform, and Namdev. He further stated that as soon as he entered the house, Namdev pulled him into the room, and bolted the room from inside. Namdev assaulted him with hands and forcibly snatched cash of Rs.5,000/- and one gold ring from him. The said act was

done in the presence of Praveen Kumar. Namdev threatened him with dire consequences. After taking away the gold ornaments by Namdev, Praveen Kumar opened the door. Thereafter, Praveen Kumar and Namdev left the house by taking all the gold ornaments and cash. Thus, even this witness testifies that the petitioner was present at the scene of the crime. Keeping in mind the testimonies of these two witnesses, the Enquiry Officer was well justified in concluding that the department has established the charge against the petitioner.

Considering the fact that the petitioner was posted as a Police Constable, considering the fact that he was working in the disciplined force of the police, the highest standard of conduct is expected from him. If the upholders of the law were to be permitted to violate the law, needless to say, it would create chaos and anarchy. Therefore, the respondent department was certainly justified in terminating the services of the petitioner by the order dated 10.04.2007. Although the petitioner had filed an appeal and a revision petition before the respondent No.2 and the Government respectively, even then both the authorities were well justified in rejecting his appeal and revision. Therefore, this Court does not find any illegality or perversity in the order passed by the learned Tribunal while dismissing the Original Application filed by the petitioner.

Of course, the learned counsel for the petitioner has relied in the case of **G.M. Tank (supra)**. However, the facts in the said case are distinguishable from the facts of the present case. In the present case, as stated above, the acquittal is based on the fact that the complainant and Smt. Y.Lakshmi had turned hostile during the course of trial. However, they have made a specific statement before the Enquiry Officer. Since the burden of proof in a criminal trial is distinct from the burden of proof in a departmental enquiry, since the complainant and Y.Lakshmi had clearly deposed against the petitioner in the departmental enquiry, the department was certainly justified in passing the impugned order of termination and rejection of the appeal and the revision petition. Therefore, the case of **G.M. Tank (supra)** does not support the case of the petitioner.

For the reasons stated above, this Court does not find any merit in the present petition.

The writ petition is accordingly dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, stand dismissed as infructuous.

(RAGHVENDRA SINGH CHAUHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

Date: 06.06.2019
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