HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

WRIT PETITION No.21840 of 2020

ORDER:

The petitioner was working as Senior Assistant in Primary Health Center, Ahobilam, Kurnool District. A criminal case was filed by his wife against him under Section 498-A I.P.C r/w Secs.3 & 4 of Dowry Prohibition Act, 1961 on 11.09.2020 and was registered in Crime No.276 of 2020. He was shown as arrested on 22.09.2020 and subsequently released on 25.09.2020. Thereupon, the respondent No.3 by impugned proceedings in Rc.No.1170/C2/2020, dated 19.10.2020 had placed the petitioner under suspension.

2. The petitioner has now approached this Court seeking a direction for setting aside the impugned proceedings on the ground that the said proceedings have been issued without application of mind and without considering any of the factors that need to be considered when a public servant is sought to be suspended from service.

3. Sri P.Radha Krishna, learned counsel for the petitioner reiterated the above submissions and also drew my attention to paragraph No.4 of the impugned proceedings which states that "***under suspension with effect from 22.09.2020 i.e., from the date of arrest and police lock up and shall continue to be under suspension until termination of criminal case***".

4. Learned counsel for the petitioner points out every order of suspension is to be reviewed upon completion of six (6) months of suspension. However, in the present case, the order of suspension does not provide for any review and would effectively remain as long as the criminal case remains pending.

5. Heard Sri P.Radha Krishna, learned counsel for the petitioner and Sri K.Bheema Rao, learned Government Pleader for Services-III.

6. Learned counsel for the petitioner has cited a Judgment of Division Bench of the erstwhile High Court of Andhra Pradesh report in ***P.Rajender v. Union of India and another***[1]. In this Judgment, the Division Bench after reviewing the various Judgments on this issue had held that an order of suspension is not an automatic order to be passed whenever disciplinary proceedings are initiated against government employee or whenever a criminal case is filed against the government employee. The Division Bench had also held that an order of suspension is an order which is interim in nature and requires application of mind on the part of the competent authority. The factors that need to be taken into account by an appropriate authority, while passing an order of suspension, is whether public interest would be affected if the petitioner is not suspended and other relevant facts and attendant circumstances.

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[1] ***(2001) 5 ALD 290 (DB)***

7. The present case does not show any such factors being taken into account. The stipulation that the suspension order shall remain in effect till termination of the criminal case is also violataive of principles of G.O.Ms.No.86 General Administration (Service) Department dated 08.03.1994 which stipulates a review of suspension orders every six months.

8. In these circumstances, there shall be a direction to the respondent No.3 to review the order dated 19.10.2020 within a period of three (3) weeks from the date of receipt of a copy of this order and pass a fresh orders either continuing the suspension of the petitioner or revoking the suspension after due consideration of all the relevant factors in the case. It is further clarified that even in the event of any further order of suspension, the said order shall not stipulate that the suspension shall remain till the termination of the criminal case.

9. Accordingly, the writ petition is disposed of. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

R. RAGHUNANDAN RAO, J

10.12.2020
RJS

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

WRIT PETITION No.21840 of 2020

10th day of December, 2020

RJS