THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION No. 4195 OF 2019

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

The petitioner has challenged the legality of the proceedings in Roc. No. 462/2018/Vigilance Cell, dated 14.02.2019 issued by the Registrar General, FAC Registrar (Vigilance) of the High Court, the respondent No.2. By the said order, the High Court has imposed a punishment of a major penalty of withholding of two increments of pay with cumulative effect upon the petitioner.

Briefly, the facts of the case are that on 01.09.2010 the petitioner was appointed as a Junior Civil Judge. She was posted at Mahaboobnagar. Subsequently, on 09.04. 2014, she was transferred to Kothagudem. Thereafter, in May, 2017, she was transferred to Ranga Reddy District. At the time of filing of the writ petition, the petitioner was working at L.B. Nagar, Ranga Reddy District.

According to the petitioner, her parents were divorced and are living separately. Her father, Sri G.R. Purna Chander Rao was employed with Singareni Colleries Company Limited, and was due to retire on

30.11.2017. Furthermore, according to the petitioner, her husband, Sri Paturi Srinivasa Rao, and her son, Paturi Vedha Varsh, decided to buy an old house bearing No. 24-3-37 at Badangpet Village, Balapur Mandal, Ranga Reddy District, admeasuring 221 square yards from one Mr. Nerella Venkateswarlu for a total consideration of Rs.55.00 lakhs. The said property was sold to her husband by a sale deed dated 01.11.2017. In order to purchase the said property, her husband had taken a housing loan of Rs.47,64,295/- from the State Bank of India, Dilsukhnagar Branch, Hyderabad, while the remaining part of consideration, namely Rs.11.00 lakhs was contributed by her father. Furthermore, according to the petitioner, since her parents were separated, and since her father did not want her to find out about his having paid Rs.11.00 lakhs to her son, the entire transaction of buying of the old house was kept as a secret from her. In fact, according to the petitioner, she was never told about the said transaction by her husband. It is only subsequently, she learnt from her son about the said transaction. Immediately, after knowing the fact about the purchase of the property, she addressed a letter to the Principal Sessions Judge on 23.11.2017, and a letter to the Registrar (Administration) of the High Court informing them that recently her husband had purchased the said property in the joint names of himself and her elder son. However, the said letter was returned to her ostensibly on the ground that it did not meet the requirement of Rule 9 of the A.P. Civil Services (Conduct) Rules, 1964.

Therefore, again the petitioner submitted an application on 19.12.2017, along with the prescribed proforma before the High Court. On 19.12.2017, she also enclosed the copies of the sale deed, the loan account statement of her husband, counterfoil showing the deposit made by her father in the account of the seller. In her letter, she had clearly pointed out that the entire sale consideration of Rs.55.00 lakhs, out of which, Rs.11.00 lakhs had been paid by her father, and the remaining amount had been secured by taking a housing loan, and the savings of her husband. Upon this application, the High Court had sought certain clarifications from her, especially, with regard to the housing loan sanctioned, along with the EMI particulars, proof of encashment/withdrawal of Rs.11.00 lakhs by her father. She immediately, submitted the particulars required by the High Court. She also submitted counterfoils of different amounts made by her father into the bank account of the vendor. But notwithstanding the application and the documents submitted by the petitioner, on 14.03.2018, a charge-sheet was furnished to the petitioner.

Two articles of charges were framed against the petitioner, which are as under:-

Articles of Charge No.1:

That you, Smt. G. Kavitha Devi, II Metropolitan Magistrate, L.B. Nagar, Rangareddy District, while working as such, without obtaining prior permission of the High Court, your husband and son, who are your family members, purchased an immovable property i.e., old residential house bearing No.24-3-37 at Badangpet Village, Balapur Mandal, Rangareddy District, admeasuring 221 square yards from Sri Nerella Venkateswarlu, R/o. Hyderabad, for a sale consideration of Rs.55,00,000/-, which fact is well within your knowledge, and sale deed is registered in the name of Sri Pathuri Srinivasa Rao and Sri Pathuri Vedhavarsh, who are your husband and son vide Sale Deed Document No.12832/2017, dated 01-11-2017, and said sale is contrary to the High Court's circular instructions in Roc. No. 2075/2002-B4, dated 03-12-2002, in-as-much as you did not take prior permission from the High Court to purchase the said property by your family members and thus you have acted in breach of conduct rules, which act of yours, if proved or established would amount to grave misconduct and unbecoming of a judicial officer within the meaning of Rule 9 of A.P. Civil Services (Conduct) Rules, 1964.

Articles of Charge No.2:

In your application dated 19-12-2017, addressed to the Registrar (Administration), giving information relating the purchase of the property subsequent to the purchase, you mentioned that out of total sale consideration of Rs.55,00,000/-, an amount of Rs.11,00,000/- has been contributed by your father Sri G.R. Purnachandra Rao, who retired from service *on 30-11-2017, but as against the said fact, the sale deed was registered on 01-11-2017, much prior to the date of retirement of your father and therefore, your father could not have provided such amount to you, earlier to his retirement, for purchase of the said property in the name of your husband and elder son, and in order to get the things done in your favour, you ventured to mislead the High Court by giving false information as if your father contributed Rs.11,00,000/- for purchase of the said property, which act of yours, if proved or established would amount to grave misconduct and unbecoming of a judicial officer within the meaning of Rule 9 of A.P. Civil Services (Conduct) Rules, 1964.*

Immediately, the petitioner filed her explanation to the charge-sheet denying the charges leveled against her. However, despite her explanation, the High Court proceeded to initiate an enquiry against her.

While the High Court examined a single witness and exhibited nine documents, the petitioner examined herself, and her husband as witnesses, but did not submit any documents.

After completion of the enquiry, the Enquiry Officer concluded that charge No. 1 and charge No. 2 were duly proved against her. Therefore, by order dated 15.10.2018, the second show-cause notice was issued to the petitioner. Notwithstanding her reply to the second show-cause notice, by order dated 14.02.2019, the respondent No. 2 imposed the punishment as aforementioned. Hence, this writ petition before this Court.

Mr. G. Vidya Sagar, the learned Senior Counsel for the petitioner, has raised the following contentions:-

Firstly, it is not a case where the petitioner had intentionally and willfully withheld any information with regard to the transaction, which was entered by her husband, and her son with the vendor. In her statement before the Enquiry Officer, she had clearly stated that she had no knowledge about the said transaction as her husband never revealed the same to her. The said statement has further been corroborated by the testimony of her husband, D.W.1, who also admits that he did not inform his wife, the petitioner, about the said transaction.

Secondly, an amount of Rs.11.00 lakhs was given by the petitioner's father through cheques on different dates. The petitioner's father did not inform her about his giving the amount of Rs.11.00 lakhs to her son. For, he thought that since the petitioner does have good relationship with his strained wife, the petitioner's mother, the petitioner is likely to reveal the said information to his strained wife. Therefore, even the father did not reveal anything to the petitioner with regard to the said transaction.

Thirdly, the moment the petitioner came to know about the said transaction, immediately she informed the High Court. Therefore, it is not a case where the petitioner had intentionally and willfully hidden a vital information from the High Court, and in contravention of the Circulars issued by the High Court. Moreover, since the petitioner herself was kept in the dark, she had no intention to violate the provisions of A.P. Civil Services (Conduct) Rules, 1964.

Fourthly, it is highly ironical that the petitioner is being punished with a major punishment, despite her honestly informing the High Court about a transaction, about which she was kept in the dark.

Fifthly, the imposition of a major punishment for an unintended act is shockingly disproportionate to the alleged misconduct. Therefore, the learned Senior Counsel has pleaded that the impugned punishment order should be set aside by this Court, and the case should be remanded back to the disciplinary authority to reconsider the quantum of punishment, if any, to be imposed upon the petitioner.

On the other hand, the learned Standing Counsel for the respondent No. 2 has raised the following counter-arguments:-

Firstly, the petitioner is not justified in claiming that she was unaware of the circular issued by the High Court. For, even on a previous occasion, when she had raised construction of a house, she had already informed this High Court. Hence, she was well aware of the fact that the law requires her to inform the High Court prior to any transaction taking place with regard to movable, or immovable property by herself, or by her family members. Therefore, her plea that she was unaware of the law is a highly misplaced plea.

Secondly, her explanation that her father had parted with Rs.11.00 lakhs, out of the total consideration, is belied by the fact that the said amount was transferred by her father even prior to his retirement on 30.11.2017. Therefore, the very source of the money invested in buying the property becomes suspect.

Thirdly, the conduct of a Judicial Officer has to be above board. Any conduct of a Judicial Officer that permits the people to wag their tongues is highly reprehensible. Therefore, the respondent No. 2 was justified in imposing the major penalty of withholding of two increments with cumulative effect. Hence, the learned counsel has supported the impugned order.

Heard the learned counsel for the parties, and perused the impugned proceedings.

Both the Enquiry Officer and the Disciplinary Authority are required to appreciate the facts of the case holistically, rather than in a piecemeal style. From the very initial stage, the petitioner has been pleading that due to the fact that her parents were divorced, her father did not reveal to her about the transaction. Secondly, even her husband did not reveal the transaction to her, a fact admitted by her husband. Thus, obviously, prior to the transaction taking place, the petitioner was kept in the dark by her family members.

It is only upon coming to know about the transaction about the property being bought, the petitioner immediately informed both the Principal District Judge, and the High Court with regard to the same. Moreover, she produced the relevant documentary proofs to show the source of the sale consideration. According to her, while her husband had taken a house loan to a tune of Rs. 47,64,295/-, her father had issued three different cheques, two cheques on 27.07.2017, and one cheque on 30.10.2017 for a total amount of

Rs.11.00 lakhs. Most importantly, when the petitioner states before the Enquiry Officer that she is unaware, her "unawareness" is not with regard to the Rule 9 of the A.P. Civil Services (Conduct) Rules, 1964, or with regard to the Circular instructions issued by the High Court. In fact, her "unawareness" is with regard to the transaction entered between her husband and her son on one side, and the vendor on the other side. Therefore, the learned Standing Counsel for the High Court is unjustified in claiming that the petitioner is blowing hot and cold on one hand claiming that she is unaware of the existence of the Circulars, and yet, on the other hand, admitting that on the previous occasion, when she got a house constructed, she sought permission of the High Court. In fact, the petitioner has been giving a consistent story that she was unaware of the transaction entered between her husband and her son on the one hand, and the vendor on the other. Therefore, she has taken a consistent stand in her defense.

Furthermore, upon coming to know about the transaction, it is she herself who had informed the Registrar (Administration) of the High Court, and the Principal District Judge about the transaction. It is not a case where the High Court has been informed by a third party that a Judicial Officer has bought a piece of property without informing and without seeking the permission of the High Court. In fact, it is the petitioner herself, who had sought the permission of the High Court immediately after coming to know about the transaction. Furthermore, she is honest enough to inform the High Court that the value of the property is Rs.55.00 lakhs, out of which, Rs.11.00 lakhs has been given by her father to her son by depositing different cheques on different dates in the account belonging to the vendor. And the remaining balance sale consideration has been taken by her husband as a house loan from State Bank of India. Therefore, the petitioner had honestly disclosed the relevant facts to the High Court.

Of course, the learned Standing Counsel for the High Court has stressed on the point that the petitioner claimed that the amount of Rs.11.00 lakhs was given by her father from his retrial benefits, therefore, he could not have shelled out Rs.11.00 lakhs prior to the date of his retirement i.e. prior to 30.11.2017. But, it is no one's case that the petitioner's father did not have sufficient savings to the tune of Rs.11.00 lakhs prior to his retirement. Therefore, there is nothing unusual if a father wants to give the said amount to his daughter, or to his grandson for buying a piece of property. Moreover, petitioner's father had deposited a total of Rs.11.00 lakhs through different cheques issued in the name of the vendor. Therefore, the transaction of giving of Rs.11.00 lakhs is transparent in its scope. Hence, the contention raised by the learned Standing Counsel for the High Court is clearly untenable.

Before an employer imposes any punishment on an alleged delinquent employee/officer, the employer is required to consider the circumstances of the case holistically. Needlesstosay, the punishment must commensurate with the extent of the delinquency. In the present case, the petitioner has been honest enough to inform the High Court immediately after she was told by her son. Thus, it is the petitioner who had come forward to reveal the facts of the case. As mentioned hereinabove, it is not a case where a third party has filed a complaint before the High Court revealing a transaction hidden by a Judicial Officer. Thus, it is ironical that the petitioner is being punished for her honesty, and that too, a major punishment has been imposed upon her by the High Court.

For the reasons stated above, this writ petition is, hereby, allowed. The punishment order dated

14.02.2019 of the respondent No. 2 is, hereby, set aside; the case is remanded to the disciplinary authority for reconsideration of the quantum of punishment, if any, under the peculiar facts and circumstances of this case. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(A. ABHISHEK REDDY, J)

02nd March, 2020

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