

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY
WRIT PETITION No.28972 of 2019
07.02.2020

Between:

G.G.Venkateshwara Chary

...Petitioner

and

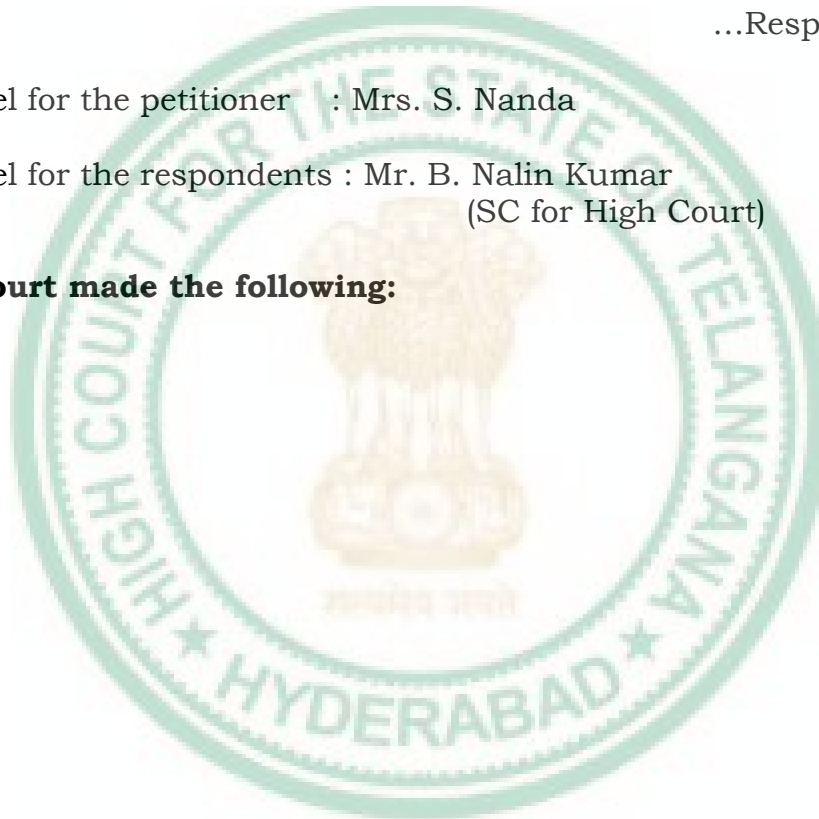
The Registrar Vigilance,
High Court of Telangana, Hyderabad,
and others.

...Respondents

Counsel for the petitioner : Mrs. S. Nanda

Counsel for the respondents : Mr. B. Nalin Kumar
(SC for High Court)

The Court made the following:



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

The petitioner has challenged the legality of the charges framed against him by the Disciplinary Authority.

Briefly, the facts of the case are that the petitioner is a Junior Assistant in the Court of the VI Additional Chief Metropolitan Magistrate; presently, he is working, on deputation, in the Court of the XIV Additional Chief Metropolitan Magistrate at Hyderabad. According to him, his niece, Divya Bhargavi, was married to one Dontham Srinivas, S/o. D. Prabhakara Chari. Subsequently, as disputes arose between the couple, Dontham Srinivas filed a suit, namely F.C.O.P.No.161 of 2017 seeking divorce from Divya Bhargavi. The said case was filed before the learned Family Judge, City Civil Court, Hyderabad. As a counter-blast, Divya Bhargavi lodged a complaint before the Women Police Station, Begumpet, and registered a criminal case both against her husband and her in-laws, namely C.C.No.140 of 2017. The said case is presently pending before the learned XV Metropolitan Magistrate at Hyderabad. She also filed a Maintenance Case, namely M.C.No.21 of 2019, and a Domestic Violence Case, namely D.V.C.No.201 of 2017 against her husband and in-laws. Both these cases are presently pending before the Family Court and the IV Metropolitan Magistrate at Hyderabad. Further, according to the petitioner, on 02.05.2018 Divya Bhargavi's father-in-law, D. Prabhakara Chari, submitted a complaint against the petitioner, wherein he alleged that the petitioner had called D. Srinivas on his mobile phone and threatened him. He further claimed that the said conversation was duly recorded by his son. He gave a copy of the Compact Disk containing the conversation along with his

complaint. He further alleged that on 21.02.2018 when he came to attend the Court in connection with C.C.No.140 of 2017, his daughter-in-law, at the instigation of the petitioner, kicked him in the corridor of the Court and the said incident has been recorded in the CCTV camera. When the complainant filed a criminal case against his daughter-in-law, the petitioner threatened the complainant that he would send some policemen to the working place of his son, and he would ensure that his son is suspended from his job. The said complaint was forwarded by the learned Metropolitan Sessions Judge – cum – Disciplinary Authority, the respondent No.2, to the third respondent for holding a preliminary enquiry. After the completion of the preliminary enquiry, the following charges have been framed against the petitioner:-

“ARTICLE OF CHARGE No.1:

That you, Sri G.G.Venkateshwara Chary, Junior Assistant of VI Addl. Chief Metropolitan Magistrate Court, working on deputation in the court of XIV Addl. Chief Metropolitan Magistrate, Hyderabad, threatened the son of Sri D. Prabhakara Chary that he and his family members would be sent to jail on just one phone call as you have good connections in Judicial department and thereby misused your position and power, which act amounts to misconduct and unbecoming of a Government employee, within the meaning of Rule 3 of Telangana C.S. (Conduct) Rules, 1964. Hence the charge.

ARTICLE OF CHARGE No.2:

That you, have influenced the staff of Judicial department and overlooking the files and proceedings in the cases of DVC and 498-(A) IPC cases filed against the son of Sri D. Prabhakara Chary, which act amounts to misconduct and unbecoming of a Government employee, within the meaning of Rule 3 of Telangana C.S. (Conduct) Rules, 1964. Hence the charge.

ARTICLE OF CHARGE No.3:

That you, abused the son of Sri D. Prabhakara Chary in filthy language and kicked Sri D. Prabhakara Chary in the corridor of XV Addl. Chief Metropolitan Magistrate Court when they attended in CC.No.140/2017 on 21-02-2018 for which they complained at P.S.Nampally, and the same was recorded in the CC TV footage and the threatening conversations also recorded in phone of the son of Prabhakara Chary and produced in CD, which act amounts to misconduct and unbecoming of a Government employee, within the meaning of Rule 3 of Telangana C.S. (Conduct) Rules, 1964. Hence the charge.

ARTICLE OF CHARGE No.4:

That you, have threatened them that you would send some police to work place of son of Sri D. Prabhakara Chary under the guise of false cases and get him suspended from his job, which act amounts to misconduct and unbecoming of a Government employee, within the meaning of Rule 3 of Telangana C.S. (Conduct) Rules, 1964. Hence the charge.”

Aggrieved by the charges framed, the petitioner has filed the present Writ Petition before this Court.

Learned counsel for the petitioner submits that the charges are absolutely vague and contrary to the complaint itself. Secondly, before the framing of the charges, no opportunity of hearing has been given to the petitioner. Hence, the principles of natural justice have been violated. Thirdly, even on an earlier occasion, the complainant's wife had submitted a complaint before the learned Metropolitan Sessions Judge. However, no action was taken on the said complaint. Hence, no action should have been taken on the complaint filed by the complainant, dated 02.05.2018. Therefore, the charges framed deserve to be set aside by this Court.

On the other hand, Mr. B. Nalin Kumar, the learned counsel for the respondents, submits that the charges are based on the complaint submitted by the complainant. Even if the charges are bereft of concrete details, the charges cannot be interfered at the initial stage, as it is for the Department to establish its case on the basis of the evidence against the delinquent officer. Secondly, a preliminary enquiry is a fact finding enquiry. Therefore, no opportunity of hearing needs to be given to the delinquent officer. Hence, the principles of natural justice have not been violated. Moreover, once in the preliminary enquiry a *prima facie* case has been discovered against the delinquent officer, the respondents are justified in framing the charges and in initiating the departmental enquiry against the petitioner. Lastly, merely because no action was taken on an earlier complaint, the principle of estoppel would not be applicable.

Heard the learned counsel for the parties, perused the charges, and the record submitted by the petitioner.

Undoubtedly, the petitioner belongs to and is working for the judiciary. Therefore, even the employees working for the judiciary have to maintain a high standard of conduct and behaviour. If there is any complaint with regard to the conduct and behaviour of an employee, the respondents are duty bound to take a serious view of the same. For, even an employee cannot be permitted to tarnish the image of the judiciary.

A bare perusal of the charges reveals that *prima facie*, the charges are based on the complaint submitted by the complainant

on 02.05.2018. Therefore, it is a matter of evidence to be produced both by the Department and by the delinquent officer, which would decide the fate of the delinquent officer and the fate of the charges levelled against the petitioner. It is too earlier on the day to interfere with the charges. Repeatedly the Hon'ble Supreme Court has opined that the Court should refrain from interfering with the departmental enquiry at the initial stage of framing of the charges and should permit the departmental enquiry to continue to its final conclusion. Therefore, the contention of the learned counsel for the petitioner that since the charges are vague, this Court should set aside the charge sheet, is clearly untenable.

Needless to say, a preliminary enquiry is a fact finding enquiry. There is no requirement of law that the delinquent officer needs to be given an opportunity of hearing during the preliminary enquiry. Therefore, the learned counsel for the petitioner is unjustified in claiming that while holding the preliminary enquiry, the delinquent officer needs to be given an opportunity of being heard.

For the reasons stated above, this Court does not find any merit in the present Writ Petition; it is, hereby, dismissed.

The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

07.02.2020
vs