

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

W.P. No. 28193 of 2011

Date: 26.02.2020

Between:

The Director,
Sardar Vallabhai Patel National Police Academy,
Government of India, Ministry of Home Affairs
Shivarampally, Hyderabad, and three others

...Petitioners

And

H.V. Ramana, s/o H.S. Murthy,
Aged about 50 years, working as Stenographer,
Sardar Vallabhai Patel National Police Academy,
Government of India, Ministry of Home Affairs,
Shivarampally, Hyderabad and another

...Respondents

**Counsel for the petitioner: Mr. Namavarapu Rajeswara Rao,
Assistant Solicitor General**

**Counsel for the respondents: Mr. Koppula Gopal
for Mr. K. Goverdhan Reddy**

The Court made the following:

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

The petitioners have challenged the legality of the order dated 16.08.2010, passed by the Central Administrative Tribunal, Hyderabad Bench ('the Tribunal' for short), whereby the learned Tribunal has allowed the O.A. filed by the respondent No.1, Mr.H.V.Ramana (henceforth referred to as 'the applicant'), and set aside the punishment order dated 12.07.2006, the appeal order dated 24.04.2007, and the recovery order dated 07.10.2006.

Briefly, the facts of the case are that the applicant was working as Grade-I Stenographer with the Sardar Vallabhai Patel National Police Academy ('the Academy' for short). By proceedings dated 02.05.2002, the applicant was asked to act as a Treasurer in the SVP NPA Camera Club ('the Club' for short). The applicant's duty was to deposit the payment realised out of commercial printing to the cashier. While the applicant was functioning as a Treasurer of the Club, he was issued a Charge Memorandum on 16.07.2005, whereby the following charges were framed against him.

Article-I: Shri H.V. Ramana, Steno, Gr.I, while functioning as Hon. Treasurer of the SVP NPA Camera Club misappropriated the payments received from the indentors for commercial printing works. The entire payments received towards commercial printing works were unauthorisedly kept with him for unusually longer periods, obviously for his personal gains, and he deposited an amount of Rs.21,424/- on 18.12.2003, Rs.10,000/- on 17.03.2005 and Rs.91,577/- on 29.03.2005 which is clear violation of the financial rules. He had committed criminal breach of trust by

misappropriating the payments received towards commercial printing works of the Camera Club. It was noticed while auditing the accounts of Camera Club that total amount of Rs.1,84,227/- was collected towards commercial printing works. As against this, only an amount of Rs.1,41,001/- has been deposited in the government account. As such there was a short remittance of Rs.43,226/-.

Article-II: Shri H.V. Ramana, Grade-I, while functioning as Hon. Treasurer of the SVP NPA Camera Club from 1.5.2002 to till suspension on 12.4.2005 did not maintain records and accounts of the Camera Club properly. He had neglected the duties of the Hon. Treasurer, Camera Club assigned to him.

The said charge sheet was furnished under the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('The Rules', for short). Subsequently, a departmental enquiry was held by the Academy. Despite the applicant asking for certain documents to be supplied to him, the same were not supplied. After concluding the enquiry, on 30.05.2006, the Enquiry Officer submitted his report to the Deputy Director (Administration) & Disciplinary Authority, the respondent No.2. According to the said enquiry report, the applicant was found guilty in respect of the charges levelled against him under Articles I and II. By Memorandum dated 02.06.2006, a second show cause notice was issued to the applicant; the same was received by him on 30.05.2006. On 28.06.2006, the applicant submitted a detailed representation against the Enquiry Officer's report. However, notwithstanding his detailed representation, by order dated 12.07.2006, the penalty of reduction of rank by one stage from the

Stenographer Grade-I (Group-B Non-Gazetted) in the Pay Scale of Rs.5500-175-9000 to the Stenographer Grade-II in the Pay Scale of Rs.5000-150-8000 for a period of three years with cumulative effect with original seniority not being restored, was imposed upon the applicant.

Since the applicant was aggrieved by the punishment order dated 12.07.2006, he filed an appeal before the Director of the Academy, the respondent No.1. However, by order dated 24.04.2007, the respondent No.1 dismissed the appeal filed by the applicant, and confirmed the punishment order dated 12.07.2006.

Meanwhile, the Assistant Director (Administration), the respondent No.3, initiated a recovery process by his order dated 07.10.2006, wherein he directed the applicant to remit an amount of Rs.39,669-65 paise.

Since the applicant was aggrieved by the punishment order, by the order passed by the appellate authority, and by the recovery order, he filed O.A.No.37 of 2009 before the learned Tribunal. As stated above, by order dated 16.08.2010, the learned Tribunal has allowed the O.A. and set aside the impugned orders. Hence, this writ petition before this Court.

The learned counsel for the petitioners has vehemently contended that under the Bye-Laws of the Club, the Director of the Academy is the Ex-Officio President of the Club. Since

the impugned orders were passed by the Director, the learned Tribunal is unjustified in concluding that the orders have been passed illegally against the applicant. Therefore, the impugned order passed by the learned Tribunal deserves to be set aside by this Court.

On the other hand, the learned counsel for the applicant submits that the learned Tribunal is justified in concluding that the applicant wears two different heads, *firstly* as a Stenographer Grade-I, and *secondly*, as a Treasurer of the Club. His misconduct related to his action while working as a Treasurer of the Club. It did not relate to any misconduct committed by him as the Stenographer Grade-I of the Academy. Therefore, the learned Tribunal was justified in concluding that if any departmental action had to be taken against the applicant, it, necessarily, had to be taken by the Club under its Bye-Laws.

Secondly, although under Bye-Law 7(1) of the Bye-Laws of the Club, the Director of the Academy is the Ex-Officio President of the Club, but even then the Director wears two different heads, *firstly* as the Director of the Academy and *secondly* as the President of the Club. However, the impugned orders have not been issued by the President of the Club. In fact, the impugned orders have been issued by the Director of the Academy. Therefore, the learned Tribunal was justified in concluding that the impugned orders have been

passed by an authority, who did not have the competence to pass them. Hence, the impugned orders would be void *ab initio*. Thus, the learned Tribunal was justified in setting aside the orders. Therefore, the learned counsel has supported the impugned order passed by the learned Tribunal.

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

A clear distinction has to be made between the Academy, and the Club. Although the Club may cater to the needs of the members of the Academy, but that does not imply that the Academy and the Club are the same entities. Moreover, while the Academy has its own Service Rules, and is free to invoke the CCS (CCA) Rules, any conduct of a person working under the Club would have to be examined, and punished under the Bye-Laws of the Club.

Undoubtedly, the applicant had twin identities while working in the Academy; *firstly*, as an employee of the Academy in the capacity of a Stenographer Grade-I; *secondly*, as working for a Club in the capacity of a Treasurer. Admittedly, his alleged misconduct related to his action as a Treasurer, and not as a Stenographer Grade-I. Therefore, his misconduct could have been examined, enquired into, and punished only under the Bye-Laws of the Club. However, in the present case, the charge-sheet and the punishment order

have not been issued by the Club, but in fact, have been issued by the Academy. Therefore, the learned Tribunal was certainly justified in concluding that the impugned orders have been passed by the authorities who do not have the competence to do so. Hence, the impugned orders are void *ab initio*.

Even if under Bye-Law 7(1), the Director of the Academy is the Ex-Officio President of the Club, even then, the Director also is bestowed with twin identities of being the Director of the Academy, and the President of the Club. However, the impugned orders have not been passed by the Director in his capacity as the President of the Club.

Therefore, for the reasons stated above, this Court does not find any illegality or perversity in the impugned order passed by the learned Tribunal. This writ petition, being devoid of any merit, is hereby dismissed.

As a sequel, Miscellaneous Petitions, pending if any, shall also stand dismissed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(A. ABHISHEK REDDY, J)

Date: 26-02-2020
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