

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF MARCH
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI

WRIT PETITION NO: 17971 OF 2015

Between:

Vijaya Kumar, S/o. Late Sree Rama Sharma, Aged about 48 years, Occ RPF Inspector, Flat No. 203, Pasham Sathaiah Apartments, Plot No.1-2-57 to 61, Near e-seva Center, Domalaguda, Hyderabad-500029.

(Working as Inspector/RPF at Sirpur Kagaz Nagar, Station)

.....PETITIONER

AND

1. The Railway Protection Force /SCR, Rep. by its Chief Security Commissioner, Rail Nilayam, Secunderabad.
2. The Senior Divisional Security Commissioner (SCR), R.P.F. Secunderabad Division, Sanchalan Bhavan, Opp. Rail Nilayam, Secunderabad.
3. The Director General, Railway Protection Force, Railway Board, Rail Bhavan, New Delhi.

.....RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus, declaring as illegal and arbitrary the penalty, Order passed by the Respondent No.2 vide his proceedings bearing No. S/X/P.227/153/03/2012, dated 29-04-2013 as confirmed by the 1st Respondent vide his proceedings bearing no.X / P.227 / 153 / Appeal/IVK/2013, dated 03-06-2014, as confirmed by the Respondent No.3 vide his proceedings bearing No. 2014/Sec(E)/DAR-3/38, dated 1842-2014 communicated to the Petitioner on 05-06-2015, as the said orders are vitiated by non compliance of the procedure for Departmental Cognizance under rule 162.1 to 162.5 of the Railway protection Force Rules

1987 and other provisions whereof and it is further consequentially prayed that this Honble Court may be pleased to set-aside the all the above 3 orders passed by Respondent No. 1 to 3, directing them to treat the Petitioner to have been in continuous service in the rank of Inspector, paying him the full pay and perks attached to in the said post of Inspector and also to treat the suspension period of the Petitioner as on duty paying him full pay and perks attach to the post of Inspector and to allow him all consequential benefits, as demoting him to the post of Sub-Inspector by way of the above illegal penalty is a nonest through out.

I.A.NO:1 OF 2015 (WPMP.NO:23222 OF 2015)

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No.1, to forthwith pay the petitioner all the pay and perks attached to the post of Inspector by treating the period of his demotion to the post of Sub-Inspector for a period of 2 years with cumulative effect as one that of the Petitioner's service as Inspector, as his demotion order imposed by the Respondent No.2 proceedings bearing No. S/X/P.227/153/03/2012, dated 29-04-2013 as confirmed by the Respondent No.1 and 3 are void abinito.

Counsel for the Petitioner : SRI V.VENKATA MAYUR

Counsel for the Respondents : M/s K.MANI DEEPIKA

The Court made the following ORDER

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

WRIT PETITION No.17971 of 2015

ORDER:

Petitioner has questioned the order dated 29.04.2013 reverting him from the rank of Inspector to the rank of Sub-Inspector for two years with cumulative effect and also the orders dated 03.06.2014 and 18.12.2014 rejecting his appeal and revision.

2. Heard both sides and perused the record.
3. Petitioner was appointed as a Sub-Inspector in the Railway Protection Force (RPF) in the year 1992 and later he was promoted as Inspector in the year 2004. While so, a criminal case in C.C.No.298 of 2012 was registered against him for the offences punishable under Sections 447 and 509 of IPC and a charge sheet was also issued to him on the ground of indecent behavior and unauthorized absence, along with suspension order. After conducting inquiry, as the charges levelled against him were proved, he was reverted to the rank of Sub-Inspector for two years with cumulative effect vide order dated 29.04.2013. Questioning the same, he has filed an appeal and

revision, but the same were rejected vide orders dated 03.06.2014 and 18.12.2014. Hence, this writ petition.

4. Case of the petitioner is that he was acquitted in C.C.No.298 of 2012 and the appeal preferred by the prosecution in CrI.A.No.186 of 2015 was also dismissed. It is further contended that though the charges in criminal case and departmental proceedings are identical and emanating from the single incident, the 2nd respondent has proceeded with the departmental inquiry, without waiting for the outcome of the criminal case, which amounts to violation of the RPF Rules, 1987. Therefore, he prayed to set aside the impugned order.

5. On the other hand, it is the case of respondents that the impugned order of punishment is passed after considering the entire record, and hence, there is no ground to interfere with the same and accordingly prayed for dismissal of the writ petition.

6. The facts of the case are that the petitioner was reverted to the rank of Sub-Inspector on the allegation of indecent behavior and unauthorized absence. The main contention of the petitioner is that the findings of the disciplinary authority are unjust, unfair and oppressive, as no findings can be recorded, in view of his acquittal

in the criminal case. To that effect, he relied on the judgment of the Hon'ble Supreme Court in *Ram Lal v. State of Rajasthan and others*¹, wherein, while referring to its earlier judgment in *G.M.Tank v. State of Gujarat*², it is held by the Hon'ble Supreme Court that when the charges in the departmental inquiry and criminal case are identical, and if the evidence, witnesses and circumstances are one and the same, the Court can exercise its discretion and grant relief, if it comes to the conclusion that the findings of the disciplinary authority are unjust, unfair and oppressive. The said judgment is applicable to the case of the petitioner in the present case, in view of his acquittal in criminal case. Therefore, the punishment imposed against the petitioner cannot be sustained.

7. For the aforesaid reasons, the Writ Petition is allowed, setting aside the impugned orders dated 29.04.2013, 03.06.2014 and 18.12.2014. Further, the suspension period from 08.06.2012 to 29.04.2013 shall be treated as "on duty" for all purposes and the petitioner is entitled to any other benefits as per Rules. There shall be no order as to costs.

¹ 2023 SCC OnLine SC 1618

² (2006) 5 SCC 446

Pending miscellaneous applications, if any, shall stand closed.

//TRUE COPY//

SD/-K. SREERAMA MURTHY
ASSISTANT REGISTRAR

S
SECTION OFFICER

To

1. The Chief Security Commissioner, Railway Protection Force /SCR, Rail Nilayam, Secunderabad.
2. The Senior Divisional Security Commissioner (SCR), R.P.F. Secunderabad Division, Sanchalan Bhavan, Opp. Rail Nilayam, Secunderabad.
3. The Director General, Railway Protection Force, Railway Board, Rail Bhavan, New Delhi.
4. One CC to Sri V.Venkata Mayur, Advocate [OPUC]
5. One CC to M/s. K.Mani Deepika, Advocate [OPUC]
6. Two CD Copies

SA
BS

CHR

HIGH COURT

DATED:12/03/2024

ORDER

WP.No.17971 of 2015



**ALLOWING THE W.P
WITHOUT COSTS.**

⑧ GRP
26/3/24