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

FRIDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

WRIT PETITION NO: 25123 OF 2010

Between:

V. Venkateshwarlu, S/o. Buchaiah, aged about 35 years, Sub Inspector of Police (Civil), Hyderabad Range, Hyderabad

...PETITIONER

AND

1. The Commissioner Of Police, Hyderabad City, Hyderabad
2. The Deputy Inspector General of Police, Hyderabad Range, Hyderabad
3. The Director General and Inspector General of Police, Andhra Pradesh, Hyderabad
4. The Government of Andhra Pradesh, Rep, by its Secretary, Home Department, Secretariat, Hyderabad
5. The Andhra Pradesh Administrative Tribunal, Rep by its Registrar, Hyderabad

...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, order or direction more particularly one in the nature of Writ of Certiorari call for the records relating to the impugned Order dt. 24.2.2010 in O.A.No.5890 of 2006 with M.A.2844/2009 on the file of the A.P.A.T. and Proc.R.O.No.44/2006 Rc.No.770/E-202/HR/2005 dt. 14.8.2006 issued by the 2nd respondent and set aside the same as illegal, arbitrary, unjust and undue advantage and consequently declare that the petitioner is entitled to be remained in service with all consequential benefits.

I.A. NO: 1 OF 2010(WPMP. NO: 32112 OF 2010)

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 direct the respondents to reinstate the petitioner as S.I. of Police by suspending the operation of the impugned Order dt. 24.2.2010 in O.A.No.5890 of 2006 with M.A.2844/2009 on the file of the A.P.A.T. and Proc.R.O.No.44/2006 Rc.No.770/E-202/HR/2005 14.8.2006 issued by the 2nd respondent.

IA NO: 1 OF 2018

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 receive Last Pay -Certificate of Petitioner issued by the Respondents, produced by the petitioner in the circumstances of the case and in the interest of justice

Counsel for the Petitioner: SRI C. SAI REDDY

Counsel for the Respondent Nos.1 to 4: GP FOR SERVICES I

Counsel for the Respondent No.5: SRI SRINIVAS RAO MADIRAJU

The Court made the following: ORDER

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

WRIT PETITION NO.25123 OF 2010

JUDGMENT: *(per Hon'ble Sri Justice Laxmi Narayana Alishetty)*

This Writ Petition is filed assailing the order dated 24.02.2010 in O.A.No.5890 of 2006 passed by the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'Tribunal').

2. Heard Sri C.Sai Reddy, learned counsel for petitioner, learned Government Pleader for Services-I appearing for respondent Nos.1 to 4 and Sri Srinivas Rao Madiraju, learned standing counsel for respondent No.5.

3. The facts of the case in nutshell are that petitioner was selected as Stipendiary Cadet Trainee Sub-Inspector of Police (for short, 'SCT SI) *vide* order dated 01.08.2004. The petitioner has to undergo 12 months basic training at A.P.Police Academy, Hyderabad, one month training with Grey Hounds, one month field operation with Grey Hounds, one month

Weapons and Tactics Training in APSP or any other unit, one month attachment to Police Station of extremist affected districts and five months attachment in districts for practical training, and that the petitioner undergone the said training and was appointed on probation as Sub-Inspector of Police (Civil) w.e.f. 02.05.2005 at Market Police Station, Secunderabad.

4. While petitioner was on training in 7th Battalion, APSP Dichpally, criminal case was registered against him on a complaint made by Sri Kurakula Raja Narayana that the petitioner beat one Sri Sateesh, co-trainee, and the said complaint was registered as Crime No.175/2005 under Section 326 of IPC and petitioner was arrested on 09.08.2005 and later, he was released on bail. The Police has also filed charge-sheet. Petitioner was placed under suspension by the 2nd respondent on 27.08.2005 and subsequently, services of petitioner were terminated *vide* proceedings dated 27.08.2005 under Rule 17(a)(ii) of A.P.State and Subordinate Service Rules, 1996 (for

short, 'Rules, 1996') and pursuant to the said orders, the 1st respondent issued Memo dated 01.09.2005 and communicated the same to the petitioner.

5. Aggrieved by the suspension order, petitioner approached the Tribunal by filing O.A.No.6149 of 2005 and the Tribunal, by way of interim order dated 18.10.2005, suspended the proceedings dated 27.08.2005 and also consequential proceedings of the 1st respondent dated 01.09.2005.

6. As the respondents did not implement the interim order dated 18.10.2005, petitioner filed C.A.No.1024 of 2005 and the respondents filed vacate petition, however, the same was dismissed *vide* order dated 26.06.2006 and the interim order was made absolute. Aggrieved by the order dated 26.06.2006, the respondents filed W.P.No.14877 of 2006 and the said writ petition was disposed of by this Court *vide* order dated 21.07.2006, whereby the impugned order was set aside with liberty to the respondents to pass fresh orders on merits in

accordance with the law and O.A.No.6149 of 2005 was also disposed of.

7. Pursuant to the said orders, petitioner was reinstated into service *vide* proceedings dated 21.07.2006 and accordingly, petitioner reported to duty on 26.07.2006. Thereafter, probation of the petitioner was terminated and he was discharged from services under Rule 17(a)(ii) of the Rules, 1996 by the 2nd respondent for his unsatisfactory conduct and performance while undergoing training at 7th Battalion of APSP Dichpally *vide* proceedings dated 14.08.2006.

8. Aggrieved by the proceedings dated 14.08.2006, petitioner approached the Tribunal by filing O.A.No.5890 of 2006 and the Tribunal *vide* order dated 24.02.2010 dismissed the O.A.No.5890 of 2006. Aggrieved by the same, the present writ petition is filed.

9. Learned counsel for petitioner had contended that Tribunal has failed to examine Rule 17 of the Rules, 1996 and has relied only on Rule 17(a)(ii), under which, petitioner's

probation was terminated without examining Rule 17(a)(iii) of the Rules, 1996. Learned counsel for petitioner had contended that Rule 17(a)(iii) contemplates that appointing authority may, at any time, before the expiry of the prescribed period of probation, post the probationer under another officer in order to make sure that the previous report made on his performance or conduct by a superior officer is not a biased one.

10. It is further contended that as per Rule 17(a)(iii) of the Rules, 1996, petitioner could have been posted under another officer if his performance and conduct was unsatisfactory, however, instead of resorting to Rule 17(a)(iii), the respondents terminated the probation of petitioner in an illegal and arbitrary manner and hence, action of the respondents is unsustainable. Learned counsel further contended that at no point of time, the authority has pointed out any misconduct and doubted, integrity of the petitioner during training period; that as per the enquiry officer's report, one Sateesh and another co-trainee were quarrelling frequently and that they

are habitual trouble makers; that the disciplinary authority instead of taking action against both of them, terminated the probation of petitioner without any basis.

11. Learned counsel for petitioner strenuously contended that crime registered against the petitioner ended in acquittal after full-fledged trial *vide* judgment dated 05.03.2008 by the Special Judicial Magistrate of First Class for Trial of P&E Offences, Nizamabad. Therefore, in view of acquittal of petitioner in criminal case, he is entitled to be reinstated into service. Learned counsel finally contended that impugned order passed by the Tribunal is contrary to settled principles of law, perverse and therefore, same is liable to be set aside.

12. *Per contra,* learned Government Pleader for Home had contended that petitioner, while in training at 7th Battalion, APSP Ditchpally, has assaulted Sateesh, co-trainee, with SLR weapon and hit him on back of his head and right leg knee and as a result, said Sateesh sustained grievous bleeding injuries and became unconscious for some time and that he

was shifted to Yashoda Hospital, Somajiguda, Hyderabad; that a case in Crime No.170/2005 under Section 326 of IPC was registered by the Police, Dichpally P.S. and petitioner was arrested on 09.08.2005 and later, he was released on bail and Police filed charge-sheet. It is further contended that petitioner was on probation when he assaulted the co-trainee and therefore, there is no requirement of regular enquiry and further, acquittal in criminal case, *ipso facto,* does not entitle the petitioner to be reinstated into service.

13. Learned Government Pleader while referring to Rule 17(a)(ii) of the Rules, 1996 had contended that said Rule empowers the authority to terminate the services of probationer by giving one month's notice or one month's pay in lieu of such notice, on account of unsatisfactory performance of duties or unsatisfactory conduct or for any other sufficient reason to be recorded in writing. In the present case, petitioner committed gross misconduct of assaulting co-trainee with SLR weapon, thereby inflicting grievous bleeding injuries and

therefore, the disciplinary authority is justified in terminating the probation of petitioner.

14. Learned Government Pleader further contended that Rule 17(a)(iii) of the Rules, 1996, referred to and relied upon by the learned counsel for petitioner, has no application to the present case since the said Rule can be invoked only where superior officer submits unsatisfactory report on the performance or conduct of trainee. However, in the present case, the probation of petitioner was terminated under Rule 17(a)(ii) of the Rules, 1996 in view of his involvement in criminal case, which was registered against the petitioner under Section 326 of IPC for assaulting co-trainee. Therefore, Rule 17(a)(iii) has no application to the present case.

15. It is relevant to refer to 7-Bench judgment of Hon'ble Apex Court in **Samsher Singh v. State of Pubjab and another**[1], wherein the Hon'ble Apex Court held that if the authority comes to conclusion that on account of inadequacy

[1] (1974) 2 SCC 831

for the job or for any temperamental or other object not involving moral turpitude the probationer is unsuitable for the job and hence, can be discharged.

16. It is relevant to refer to the decision of Hon'ble Apex Court in **State of Madhya Pradesh and others v. Bunty**[2], wherein the Hon'ble Apex Court held that acquittal in a criminal case is based on the benefit of doubt or any other technical reason, the employer can take into consideration all relevant facts to take an appropriate decision as to the fitness of an incumbent for appointment/continuance in service.

17. In **Union of India v. Methu Meda**[3], the Hon'ble Apex Court held that if a person is acquitted by extending benefit of doubt from the charge of an offence involving moral turpitude or because the witnesses turned hostile, it would not automatically entitled him for employment, that too in disciplined forces.

[2] (2020) 17 SCC 654
[3] (2022) 1 SCC 1

18. In the present case, Rule 17(a)(ii) of the Rules, 1996, empowers the authority to terminate the probationer and discharge him from services if the conduct of the probationer is not satisfactory by giving one month's notice or one month's pay in lieu of such notice. It is evident from the record that petitioner had involved in the incident of assault of co-trainee while under probation and criminal case was also registered against the petitioner and therefore, decision of disciplinary authority in terminating the probation of petitioner is within the power conferred under Rule 17(a)(ii) of the Rules, 1996.

19. A perusal of impugned order discloses that Tribunal, on detailed examination of the facts and circumstances of the case as well as legal position, has come to categorical finding that there is unsatisfactory conduct on the part of the petitioner and, therefore, disciplinary authority has rightly exercised its discretion and passed orders terminating the probation of petitioner.

20. In view of above discussion, in considered opinion of this Court, Writ Petition is devoid of any merit, further petitioner failed to point out any irregularity or illegality in the order passed by the Tribunal. Therefore, Writ Petition fails and same is liable to be dismissed.

21. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

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

SD/-K.AMMAJI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to Sri C. Sai Reddy, Advocate [OPUC]
2. Two CCs to GP for Services I, High Court for the State of Telangana, at Hyderabad [OUT]
3. One CC to Srinivas Rao Madiraju, SC[OPUC]
4. Two CD Copies

T J
BSR

kp.

HIGH COURT

DATED:20/12/2024



ORDER

WP.No.25123 of 2010

DISMISSING THE WRIT PETITION

WITHOUT COSTS

27/1/25