IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION NO: 17785 OF 2024

Between:

O Kumara Swamy, S/o- Krishna Murthy, Aged about 45 years, Formerly worked as Junior Assistant at O/o Senior Civil Judge, Atmakur, R/o- H.No. 9-32-8, Swaraj Nagar, Near Govt. Hospital, Court Road, Atmakur, Kurnool District.

...Petitioner

AND

1. The High Court of Judicature of Andhra Pradesh, at Amaravathi, rep. by its Registrar (Administration) Amaravati, Velagapudi, Guntur District.
2. The Principal District Judge, Kurnool, Andhra Pradesh.

...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 direction or order in the nature of Mandamus to adjudge and h declare the action of the 2nd Respondent in issuing proceedings vide Dis. No. 5034-A/Estt/2022 Dt. 26.09.2022 and further rejecting the petitioners application for revocation of resignation vide Dis. No. 5035-A/Estt/2022 dated 11.10.2022 as wholly illegal, arbitrary, unjust

and contrary to A.P. State and Subordinate Service Rules 1996 besides being violative of Articles 14, 16 and 21 of Constitution of India and consequently set-aside the order dated 26.09.2022 and direct the 2nd Respondent to reinstate the Petitioner into service with all consequent benefits.

IA NO: 1 OF 2024

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 Respondents to reinstate the Petitioner by suspending the operation of impugned orders passed by the 2nd Respondent dated 26.09.2022 and 11.10.2022 pending the disposal of the writ petition.

Counsel for the Petitioner: SRI. S.V.S.S.SIVA RAM

Counsel for the Respondents: VIVEK CHANDRA SEKHAR S

The Court made the following order:

APHC010339232024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3508]**
(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY-FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT PETITION NO: 17785/2024

Between:

O Kumara Swamy **...PETITIONER**

AND

The High Court Of Judicature Of Ap and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1.S.V.S.S.SIVA RAM

Counsel for the Respondent(S):

1.VIVEK CHANDRA SEKHAR S

The Court made the following:

ORDER: *(per Hon'ble Sri Justice R Raghunandan Rao)*

The petitioner who was working as a Junior Assistant in the Court of Junior Civil Judge, Atmakur, was subjected to an enquiry on the basis of the complaint made by the Junior Civil Judge, by a letter dated 11.06.2021, that the Junior Civil Judge had been abused by the petitioner on the telephone in the Court Hall and at his residence. On the basis of this complaint, an enquiry was conducted on 11.04.2022, holding that the complaint of the Junior Civil Judge was correct.

2. The Prl. District Judge, Kurnool on the basis of this report issued a Show-Cause-Notice dated 19.07.2022. Apart from this, the I Addl. District Judge, Kurnool who was acting, in charge of Prl. District Judge, also issued proceedings dated 20.09.2022 framing articles of charges, on the basis of which, a formal enquiry would be conducted. Apart from this, the petitioner was also transferred from Atmakur to Junior Civil Judge, Patikonda.

3. The petitioner submitted his letter of resignation on 22.09.2022, addressed to the Prl. District Judge, Kurnool. The I Addl. District Judge, who was the in charge Prl. District Judge, issued proceedings dated 26.09.2022 accepting the said resignation. Thereafter, the petitioner submitted a letter dated 30.09.2022 to the Prl. District Judge, Kurnool, seeking to withdraw the said letter of resignation. However, the I Addl. District Judge (FAC) Prl. District Judge, issued proceedings, dated 11.10.2022, rejecting the request of the petitioner.

4. Aggrieved by the said order of rejection, the petitioner sought to give another representation to the Prl. District Judge, which has not been considered according to the petitioner. However, no such allegation is there in the affidavit filed in support of the petition.

5. Be that as it may, the petitioner seeks to challenge the proceedings dated 11.10.2022 on the ground that the resignation of

the petitioner could not have been accepted in view of the provisions of Rule 30 of the A.P State and Subordinate Service Rules, 1996.

6. The said Rule reads as follows:-

> **30. RESIGNATION:- (a)** A member of a service may resign his appointment and the acceptance of his resignation by the appointing authority shall take effect:-
>
> (i) in case he is on duty, from the date on which he is relieved of his duties in pursuance of such acceptance.
>
> (ii) in case he is on leave, from the date of communication of such acceptance to the member or if the said authority so directs, from the date of expiry of leave; and
>
> (iii) in any other case, from the date of communication of such acceptance to the member or from such other date, not being earlier than the date on which he was last on duty, as the said authority may, having regard to administrative exigencies, specify.
>
> Provided that the resignation of a member of a service shall not be accepted against whom disciplinary proceedings are instituted as per the provisions of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 or investigation, inquiry or trial is initiated.
>
> [Amended in G.O.Ms.No. 250, G.A.(Ser. D) Dept., dt: 14-07-2000.]
>
> Provided further that a member of a service may withdraw his resignation before it takes effect.

Provided also that no withdrawal of resignation shall be permitted except with the sanction of the Goverment, if the withdrawal is made after the resignation takes effect.

(b)....."

7. Sri S.V.S.S. Siva Ram, learned counsel for the petitioner would submit that the first proviso to Rule 30(a) stipulated that the resignation of a member of service shall not be accepted when disciplinary proceedings have been instituted against him/her. The learned counsel, would draw the attention of this Court to the proceedings of the Prl. District Judge dated 20.09.2022, when articles of charges were framed against the petitioner. The learned counsel would submit that the disciplinary proceedings stood instituted against the petitioner on 20.09.2022 and consequently, no resignation offered by the writ petitioner after that date, would have been accepted until the disciplinary proceedings had been completed. As the said disciplinary proceedings were not completed, the Prl. District Judge, Kurnool could not have accepted the resignation and such acceptance would have to be set-aside as it is in clear violation of Rule 30(a) of the proviso to Rule 30(a).

8. The third proviso, to Rule 30(a), stipulates that any application for withdrawal of the resignation, after it has been accepted, would

have to go before the Government for sanction and it is only thereafter that a question of acceptance of the withdrawal would arise.

9. In the present case, the petitioner does not appear to have raised the objection pertaining to the first proviso to Rule 30(a) before the Prl. District Judge. In such circumstances, it would only be appropriate to relegate the matter back to the Prl. District Judge for decision in this regard. Needless to say, any such decision of the Prl. District Judge, would require the sanction of the Government. In the circumstances, the petitioner is permitted to make a fresh representation to the Prl. District Judge, who shall decide on the question of whether there has been a violation of first proviso to Rule 30(a) and the consequence of such violation, if any to the said Rule. The said decision to be taken, within a period of six weeks, from the date of receipt of the representation that would be filed by the petitioner. The requirement of sanction of the Government has to be taken up on the basis of the decision of the Prl. District Judge, Kurnool.

Accordingly, the writ petition is disposed of. There shall be no order as to costs. As a sequel, all pending applications shall stand closed.

SD/- K. TATA RAO
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Registrar (Administration), High Court of Judicature of Andhra Pradesh, at Amaravathi, High Court Buildings
2. The Principal District Judge, Kurnool, Andhra Pradesh
3. The Junior Civil Judge, Atmakur, Kurnool District
4. One CC to Sri S.V.S.S. Siva Ram, Advocate [OPUC]
5. One CC to Sri Vivek Chandra Sekhar S, Advocate [OPUC]
6. Three CD Copies

GSC

HIGH COURT

DATED:07/01/2025

ORDER

WP.No.17785 of 2024



DISPOSING OF THE WP

WITHOUT COSTS