

APHC010565932017



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

[3525]

TUESDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 3995/2017

Between:

Bandreddy Raja Gopal Reddy

...PETITIONER

AND

High Court Of Judicature Registrarvigilance Hyd 2 and
Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.V R REDDY KOVVURI

Counsel for the Respondent(S):

1.P S P SURESH KUMAR

2.GP FOR LAW & LEGISLATIVE AFFAIRS (AP)

The Court made the following: ORDER:

(per Hon'ble DR. Justice K. Manmadha Rao)

This writ petition is filed under Article 226 of the constitution of India for the following relief:

".....to call for the entire records in Inquiry No 2 of 2014 on the file of District Judge Kadapa-cum-Disciplinary Authority and to grant a Writ or order more fully in the nature of the Writ of Certiorari declaring the acts of the 2nd Respondents in issuing proceeding dated 30062015 in Enquiry No 2 of 2014 as illegal unconstitutional being violative of Articles 14, 15, 19 and 21 of the Constitution of India and violative of Principles of Natural Justice and Specific Provisions under the Andhra Pradesh Civil Services Classification Control and Appeal Rules 1991...."

2. The grievance of the petitioner is that he is working as Field Asst. (Amin) in District Courts at Kadapa and on the basis of complaint dated 25-09-2013 by one Sri V.Rama Chandra Reddy, a case in Cr.No.186/2013 under section 420 and 506 of Indian Penal Code was registered by Kadapa Taluk Police station against the petitioner and others and the petitioner was arrested and sent to judicial custody on 03.10.2013. Basing on the same, the 2nd respondent directed the enquiry officer to submit preliminary report. After submission of preliminary enquiry, the 2nd respondent ordered regular enquiry vide order dated 23.09.2014 by appointing Sri T. Raghu Kumar, Senior civil Judge, Kadapa as Enquiry officer, and the enquiry officer framed articles of charges. During the course of enquiry PWs.1 to 5 were examined. Later, the enquiry officer has submitted a detailed report in Enquiry No.2 of 2014 dated 09.04.2015 to the 2nd respondent holding that Charges No.1 and Charge No.3 as not proved while holding Charge No.2 as proved. Later, the 2nd respondent issued a show cause notice dated 21.04.2015 to the petitioner disagreeing with the findings of the enquiry officer holding the petitioner/charged employee is guilty of the Charges Framed and directed the petitioner "to show cause as to why the order of disciplinary authority setting aside findings of inquiry authority should not be confirmed granting 10 days time for submitting written reply." Accordingly, the petitioner has submitted his explanation. But without considering the same, the 2nd respondent vide proceeding dated 30.06.2015 terminated the petitioner from service. Hence, the present writ petition.

3. The counter affidavit has been filed by the 2nd respondent. While denying all the allegations made in the petition, *inter alia*, stated that as per Rule 21(1)(2) of C.C.A. Rules, 1991, the then Disciplinary Authority-cum-District Judge, Kadapa did not accept the enquiry report and held that the charges framed against the petitioner are proved. Elaborate tentative proceedings for setting aside the report of the Enquiry Officer and a show cause notice dated 21-04-2015 was issued to the petitioner along with copies of the tentative findings and the enquiry report on 23-04-2015. It is stated that the Provision U/R.21(2) of C.C.A, Rules, 1991, clearly states *that where the disciplinary authority is not the enquiring authority, a copy of the report of the enquiring authority together with its own tentative reasons for disagreement, if any, with the findings of Enquiring Authority or any Article of Charge shall be supplied to the Government Servant who shall be required to submit, if he so desires his written representation of submission to the disciplinary authority within 15 days, irrespective of whether the report is favourable or not to the Government Servant.*

It is further stated in the counter affidavit that as per U/R.21(3) of C.C.A. Rules, 1991, the disciplinary authority shall consider the representation if any, submitted by the Government Servant and record its findings before proceedings further in the matter as specified in the sub-rules (4) and (5) of Rule 21. It is stated that Sub-Rule (5) U/R.21 specifies that if the disciplinary authority having regard to its findings on all or any of the Articles of Charge and on the basis of the evidence adduced during enquiry is of the opinion that any of the penalties specified in clauses (VI) to (X) of Rule 9 of the C.C.A. Rules, 1991 should be imposed on the Government Servant, it shall make an order imposing such

penalty and it shall not be necessary to give the Government Servant any opportunity of making representation on the penalty proposed to be imposed. Clauses (VI) to (X) U/R.9 are provisions for major penalties and clause X provides for "dismissal from service which shall ordinarily be a disqualification for future employment under Government". The 2nd respondent has scrupulously followed the provisions U/R.21 (1)(2) of the C.C.A. Rules, 1991. Hence the subsequent order of dismissal dt.30-06-2015 is not at all vitiated, but strictly in accordance with Rule 21(5) of the C.C.A.Rules.

It is stated that the 2nd respondent was of the view that the writ petitioner was guilty of misconduct and the charges against him stand proved given the evidence available on record. The 2nd respondent arrived at such a conclusion only after properly considering the enquiry report dt.09-04-2015. It is stated that the articles of charges framed against the writ petitioner did not cause any prejudice to him. The writ petitioner had ample opportunity to question the correctness of the articles of charges framed against him. Further, the factum of executing "promissory notes" remained unrebutted by the writ petitioner. The delay in filing complaint with the police by Sri V.Ramachandra Reddy is no way can be an excuse for the writ petitioner to claim innocence. It is stated the writ petitioner's contention of far-fetchedness to believe an attenders promise and as to how Sri Ramachandra Reddy could secure an amount of Rs.8,00,000/- are only post facto surmises meant to find fault with the enquiry and the subsequent events. The question as to why Sri Ramachandra Reddy did not prefer to file a complaint with the police while he was in service does not absolve the writ petitioner from "misconduct". It is further stated in the counter affidavit that, the

averments recorded at various stages of preliminary enquiry and regular enquiry are matters of record and appropriate action was taken only after analyzing and scrutinizing the evidence. The Principle mentioned therein is irrelevant to the case against the writ petitioner.

4. The points that arise for determination in this writ petition are that :

1. Whether the dismissal of the petitioner from service pursuant to the departmental enquiry is justified?
2. Whether the criminal case of the petitioner is acquittal, if so, what is the effect of the acquittal?

5. Heard Sri V.R. Reddy Kovvuri, learned counsel appearing for the petitioner and Sri P.S.P. Suresh Kumar, learned counsel appearing for the respondents.

6. On hearing, learned counsel for the petitioner submits that the 2nd respondent did not properly consider the enquiry report dated 9.4.2015 which is evident and clearly appearing in the proceedings dated 21.04.2015 wherein the 2nd respondent mentioned that the Inquiring Authority submitted a report on 9.4.2015 holding that charges are not proved which is incorrect since the Enquiry Officer had found the petitioner guilty of charge No.2 and not guilty of charges No.1 and 3. He further submits that the 2nd respondent and the Enquiry Officer failed to consider the simple fact that, it would be a farfetched theory to believe an Attender could promise a Junior Assistant working in the same courts to fetch a job for the son of Junior Assistant and that Junior Assistant would end in paying up a staggering amount Rs.8,00,000/- in the absence of any explanation forthcoming as to how Sri V.Rama Chandra Reddy could secure an amount of

Rs.8,00,000/-?. Learned counsel further submits that the very fact also escaped scrutiny by the 2nd respondent and the Hon'ble enquiry officer as to why the said V.Rama Chandra Reddy did not complain such a grave misconduct on part of the petitioner to the concerned authorities even after retirement till the date of police complaint dated 20.05.2013.

7. Learned counsel for the petitioner has placed on record the additional material papers including the judgment copy in CC No.9 of 2015 which was filed before the II Additional Judicial Magistrate of First class, Kadapa, wherein the petitioner herein was found not guilty for the offence under Section 420 IPC and acquitted. The same are taken on record.

8. To support his contentions, learned counsel for the petitioner has placed reliance on a judgment of Hon'ble supreme Court reported in **Ram Lal versus State of Rajasthan & ors.**¹, wherein the Apex Court after considering the material and on considering the facts and circumstances of the case, *set aside disciplinary proceedings and held that the appellant shall be reinstated with all consequential benefits including all other benefits.*

9. Therefore, learned counsel for the petitioner while relying on the above decision of Hon'ble Supreme Court, contended that, in the present case, the penalty of dismissal from service is too severe when compare to the mere borrowal of amount/misconduct so as to impose the major penalty of dismissal from service, and as such, said imposition imposed by the 2nd respondent, is liable to be set aside.

¹ Civil Appeal No.7935 of 2023

10. Per contra, learned counsel appearing for the respondents also while reiterating the contents made in the counter affidavit, submits that the articles of charges framed against the writ petitioner did not cause any prejudice to him. The writ petitioner had ample opportunity to question the correctness of the articles of charges framed against him. He submits that the delay in filing complaint with the police by Sri V.Rama Chandra Reddy is no way can be an excuse for the petitioner to claim innocence. He submits that the averments recorded at various stages of preliminary enquiry and regular enquiry are matters of record nad appropriate action as taken only after analyzing and scrutinizing the evidence. The principle mentioned therein is irrelevant to the case against the writ petitioner. learned counsel further submits that nothing prevented the petitioner from questioning the validity of the enquiry report before a competent authority soon after he received the copy of the enquiry report.

11. Learned counsel for the respondents has drawn attention of this Court to the then Principal District Judge, Kadapa in his proceedings dated 30.06.2015 passed under Rule 21(4) of CCA Rules 1991 has considered the evidence of prosecution, witnesses and finally concluded that the act of the writ petitioner involved Moral Turpitude and accordingly dismissed the writ petitioner from service with immediate effect. Therefore, learned counsel for the respondents submits that the contentions of the writ petitioner are not tenable and are devoid of merits and therefore the writ petition is liable to be dismissed.

12. Admittedly, the petitioner previously working as Field Assistant (Amin) in the District Courts at Kadapa. Later, on the basis of complaint of one Sri

V.Rama Chandra Reddy, a case in Crime No.186 of 2013 under Section 420 and 506 of IPC was registered by Kadapa Taluk Police Station against the petitioner and remanded to judicial custody. Basing on the same, the petitioner was placed under suspension vide Dis.No.5544/2013, dated 3.10.2013. Later, the then Principal District Judge vide proceedings vide Dis NO.2478, dated 28.3.2014 directed the I Additional District Judge, Head of Vigilance Cell, Kadapa to conduct preliminary enquiry and to submit report in connection with misconduct committed by the petitioner herein. Accordingly the I Additional District Judge, Kadapa submitted his report dated 6.9.2014 holding that there is prima facie material of cheating and that a regular enquiry has to be conducted against the petitioner involved in criminal conduct and cheating, unbecoming of a judicial employee. Basing on the preliminary report, regular departmental enquiry as per CCA Rules 1991 has been ordered against the petitioner. the Principal District Judge, Kadapa in exercise of power under Rule 21 of CCA Rules, framed the following three charges.

ARTICLE OF CHARGE No.1

That you Sri. B. Raja Gopal Reddy, Field Assistant, District Court, Kadapa now under suspension while working in Central Nazareth Section, District Court, Kadapa having acquaintance with Sri. V. Ramachandra Reddy, Retired Judicial Employee now Residing at Balaji Nagar, Kadapa, in the year 2010 promised that you will arrange job in Judicial Department to one of the sons of Sri. V. Rama Chandra Reddy, Retired Judicial Employee by telling that you got acquaintance with many Judicial Officers and that Sri. V. Rama Chandra Reddy believing the words that you will secure job to his son, you demanded Sri. V. Ramachandra Reddy to arrange Rs.3,00,000/- on 13-10-2010 as advance amount for securing job and that Sri. V. Ramachandra Reddy paid a sum of Rs.3,00,000/- as advance amount for securing job on 14-10-2010 believing the words of you and that after two months you again demanded Sri. V. Ramachandra Reddy an amount of Rs.5,00,000/- as balance amount and that on 14-01-2011 Sri. V. Ramachandra Reddy paid Rs.5,00,000/- to you and subsequently you used to postpone to arrange job for the son of Sri. V. Ramachandra Reddy and that you replied that it is not easy to secure job in Judicial Department, but you go on promising to secure job for about two years and that you thereby cheated Sri. V. Ramachandra Reddy to pay a sum of Rs.8,00,000/- in total, which amounts to Mis-conduct as per A.P. Civil Services (Conduct Rules 1964 and Liable for disciplinary action under A.P. Civil Services (Classification, Conduct and Appal) Rules, 1991.

ARTICLE FO CHARGE NO.2

That you Sri. B. Raja Gopal Reddy, Field Assistant, District Court, Kadapa now under suspension while working in Central Nazareth Section, District Court, adapted having acquaintance with Sri V. Ramachandra Reddy, Retired Judicial Employee now residing at Balaji Nagar, Kadapa, in the year 2010 promised that you will arrange job in Judicial Department to one of the you got acquaintance with any judicial officers and that Sri. V. Ramachandra

Reddy believing the words that you will secure job to this son, you demanded Sri. V. Ramachandra Reddy to arrange Rs.3,00,000/- on 13-10-2010 as an advance amount for securing job and that Sri. V. Ramachandra Reddy paid sum of Rs.3,00,000/- as advance amount for securing job on 14-10-2010 believing the words of you and that after two months you again demanded Sri V. Ramachandra Reddy an amount of Rs.5,00,000/- as balance amount and that on 14-01-2011 Sri V. Rama Chandra Reddy paid Rs.5,00,000/- to you and subsequently used to postpone to arrange job for the son of Sri. V. Ramachandra Reddy, a retired judicial employee by dishonestly inducing sri. V. Ramachandra Reddy to pay a sum of Rs.8,00,000/-in total, which is unbecoming of an employee working in Judicial Department which amounts to Mis-conduct as per A.P. Civil Services (Conduct Rules) 1991, and thereby liable for disciplinary action under (Classification, Conduct and Appeal) Rules, 1991.

ARTICLE OF CHARGE NO.3

That you Sri. B. Raja Gopal Reddy, Field Assistant, District Court, Kadapa (under Suspension) on 10-09-2013 at about 8-00 a.m, at your house situated at Ukkayapalli of Kadapa, threatened Sri. V. Ramachandra Reddy and his son Dilip Kumar consequences and you Sri. B. Raja Gopal Reddy, Field Assistant, District Court, Kadapa (now under suspension) was arrested on Cr.No.186 of 2013 for the offences punishable under Sec.420 and 506 of IPC registered against you by Taluk Police Station, Kadapa on the complaint of Sri. V. Ramachandra Reddy which is unbecoming for a Government Servant, and the conduct of you caused embarrassment to the reputation of Judicial Department, which amounts to mis-conduct under 3 of CCA Rules, renders yourself liable for disciplinary action under CCA Rules.

13. During the course of enquiry PW.1 to 5 were examined. The inquiring authority submitted report on 9.4.2015 holding that the Charges 1 to 3 are not proved. Later, the Disciplinary authority under Service Rules applicable to delinquent, in exercise of Power under Rule 21 of CCA Rules disagreed with the findings, issued show cause notice dated 21.4.2015. Accordingly, the petitioner submitted his explanation to the Disciplinary authority. Being not satisfied with the same, the Disciplinary authority has framed charges 1 to 3. The petitioner submitted his explanation denying the above charges.

14. On a perusal of the impugned proceedings of the Disciplinary Authority-2nd respondent, dated 30.06.2015, wherein it is observed that, the Disciplinary Authority, Principal District Judge, Kadapa appointed Sri T.Raghu Ram, senior Civil Judge as an Inquiring Officer for conducting regular departmental enquiry against the delinquent. During the course of enquiry, statements of witnesses were recorded. PW.1 is the father of PW.2 and PW.3

and PW.4 is the brother of PW.1 and PW.5 is an acquaintance of PW.1 and the attester of Promissory notes.

15. The evidence of PW.1 to PW.6 recorded by Inquiring authority reveal that a sum of Rs.8,00,000/- was paid to Raja Gopala Reddy as Raja Gopal Reddy promised to secure a job to PW.3 in judicial department. It is further observed that the Enquiry Officer and the 2nd respondent had only referred to the statements in the Chief examination and failed to consider the specific admissions elicited in the cross examination and especially in the cross examination of PW.1, wherein *“he admitted that his son Delip Kumar Reddy applied for the post of Junior Assistant in District Court, Kadpa in the year 2010 and that in the month of January, 2011, after the alleged payment of balance of Rs.5,00,000/- within a few days to get the appointment letter delivered at the house of PW.1”* and no explanation for the gap between 2011 to 2013 having been not explained, the entire evidence of PW.1 to PW.5 ought to have been eschewed.

16. This Court further observed from the material that, the allegation of the so-called confrontation and Assault leading to the filing of written complaint to Kadapa Taluk Police is stated as 10.09.2013 by on Sri V.Rama Chandra D=Reddy in his statement given to the Vigilance officer i.e., I Additional District Judge, Kadapa, during the preliminary enquiry, it is clearly evident that the said charges/allegations and the evidence of PW.1 to PW.5 as totally false and do not stand to scrutiny. If borrowing money and repayment thereof without the permission of the Head of the Department, if were to constitute a misconduct,

PW.1 also equally guilty and he cannot be given preferential treatment and both being public servants employed in the same department, the principle of '*in pari delicto potiore est conditio*' cannot be applied.

17. Insofar as criminal proceedings against the petitioner is concerned, wherein, the very same witnesses were examined, who were in the departmental enquiry were examined in the criminal trial. In the judgment, it is observed that, PW.1 in his cross examination admitted that he know the procedure for the appointment of the employees in judicial department and further PW.2 admitted that they did not file any proof shows that they applied for the post in the Court. Further, PW1 admitted in his cross examination that he know the purpose for which the promissory notes would be executed and he know for any transaction or agreement, a separate agreement has to be executed. Admittedly there is no agreement for receiving cash of Rs.8 lakhs by accused No.1 and further the promissory note does not contain the recitals of Rs.8 lakhs as for providing job. It is also noted that both suits which were filed against the petitioner herein were decreed on the basis of pronotes only for recovery of the money transaction but not for the purpose of providing job, and nowhere mentioned in the judgments with regard to the money transaction taken place for the purpose of providing job. Further, a reading of the entire judgment clearly indicates that the petitioner was acquitted after full consideration of the prosecution evidence.

18. Expressions like "benefit of doubt" and honorably acquitted", used in judgments are not to be understood as magic incantation. A court of law will not

be carried away by the mere use of such terminology. The conclusion that the acquittal in the criminal proceeding after full consideration of the prosecution evidence. The Court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.

19. Under the circumstances, we are of the opinion that mere acquittal by a criminal court will not confer on the employee a right to claim any benefit, including reinstatement. However, if the charges in the departmental enquiry and the criminal court are identical or similar, and if the evidence, witnesses and circumstances are one and the same, then the matter acquires a different dimension. If the court in judicial review concludes that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge, the Court in judicial review can grant redress in certain circumstances. Further, the Court will be entitled to exercise its discretion and grant relief, if it concludes that allowing the findings in the disciplinary proceedings to stand will be unjust, unfair and oppressive.

20. Considering the submissions of both the learned counsels and by following the decision of Hon'ble Supreme Court in **Ram Lal's** case (supra), we are of the view that the orders passed by the 2nd respondent are illegal and liable to be set aside.

21. Accordingly, the Writ Petition is allowed. The impugned proceedings dated 30.06.2015 in Enquiry No.2 of 2014 issued by the 2nd respondent are hereby set aside. Further, we direct the petitioner shall be reinstated with all

consequential benefits including seniority, notional promotions, fitment of salary and all other benefits, 2nd respondent. The entire exercise shall be completed within a period of eight (08) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

22. As a sequel, miscellaneous petitions, if any, pending shall stand closed.

R. RAGHUNANDAN RAO, J

Dr. K. MANMADHA RAO, J

Date 25.03.2025
Gvl

THE HON'BLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HON'BLE DR. JUSTICE K MANMADHA RAO

WRIT PETITION No:3995 2017

(per Hon'ble DR. Justice K. Manmadha Rao)

25.03.2025

Gvl