

(1954) 02 AP CK 0003

In the Andhra Pradesh High Court

Case No : Writ Petition No. 45/5 of 1953

Dattatraya Mangure

APPELLANT

Vs

The Government of Hyderabad

RESPONDENT

Date of Decision : 23-02-1954

Acts Referred:

Constitution of India, 1950 — Article 226, 311

Citation : (1954) 02 AP CK 0003

Hon'ble Judges : Misra, C.J.;Srinivasachari, J

Bench : Division Bench

Advocate : Venkatrao Deshpande and Shriram Pandit, for the Appellant; V. Rajaram Iyer, General, for the Respondent

Judgement

Misra, C.J.—This is an application under Article 226 of the Constitution praying that the Petitioner may be ordered to be reinstated in the police force and his entire arrears of pay as well as belongings should be ordered to be given to him.

2. The Petitioner joined the police force on 7-11-1951 as a jemadar in the Reserve Police and later on became the company commander of the 6th Battalion on 1-5-1952. It would seem that subsequent thereto he was transferred to the 3rd Battalion and then again attached to the 1st Battalion of the Hyderabad Special Reserve Police at Ibrahim Bagh lines. When he was serving in the 6th Battalion there was some charge against the Petitioner in respect of misappropriation of a sum of Rs. 1350/- and while enquiries were going on in that connection the Applicant was suspended on 4-12-1952 for unruly conduct. The writ petition is directed against this order of suspension, it being claimed that under Article 311 of the Constitution no suspension order can be passed without framing a charge and making an enquiry against a person who is a civil servant of India.

In the course of his application, the Petitioner has narrated various facts which are totally denied by the Inspector General of Police on the other side. As regards the suspension order it is pointed out by the Respondent that it was withdrawn

on 5-12-1952 in view of the fact that the Petitioner apologized for his unruly conduct; that he was thereupon asked to join duty and he actually reported himself at 3-40 P.M.; that later in the evening the Petitioner deserted the force at 7 P.M. and has not been heard of since; that attempts were made on the 10th December to communicate with him by issuing a notice to show cause why he should not be discharged on account of his desertion but the delivery of the notice was not accepted by the Petitioner and that finally an order for his discharge as deserter was passed against him on 29-12-1952. All these facts are denied on behalf of the Petitioner.

3. After hearing the parties we have come to the conclusion that a satisfactory decision on facts would in this state of averments involve an extended and prolonged enquiry into the truth or otherwise of the conflicting allegations made on either side it is well known that while exercising its writ jurisdiction the High Court does not constitute itself a court of facts and ordinarily it is only where facts are admitted or clear on affidavits and the only question to be decided is one of law that this Court condescends to take up matters for disposal under Article 226 of the Constitution assuming of course that the other essentials necessary for the passing of an appropriate writ are present. This is because if the suitor can get an equally adequate and speedy remedy by recourse to the normal process of law where both parties can produce their evidence and complicated questions of fact can be more satisfactorily gone into, it would be unfair & risky to determine the dispute in a summary manner by permitting resort to the extraordinary jurisdiction of this Court.

The fact that in the present case a suit for declaration is competent is not denied by the Petitioner, It is claimed, however, that it will be a prolonged remedy whereas an order of the High Court would relieve him of the necessity of producing evidence and going through a long trial in civil courts. A regular suit, he says, "is bound to take a long time which will certainly not endure the patience of this poor Petitioner".

We may repeat that where parties are in dispute on several questions of fact and in order to get at the truth it is necessary that each of them should be given ample opportunity of examining its witnesses and canvassing its respective assertions, they should be left to the ordinary remedy for resolving the differences between them since a court of facts would be in a better position to judge between the two conflicting versions. Judicial investigation we are clear should on principle not be allowed to be sacrificed for the convenience of the Petitioners. See in this connection:--Ramani Kanta v. Gauhati University AIR 1951 Gau 163 (A);-- D. Parraju Vs. General Manager, B.N. Railway and Others, ;-- Naresh Chandra Sanyal Vs. The Union of India and Others, ;--Naubat Bai v. Union of India AIR 1953 Punj 137 (D); A.C. Gilbert and Others Vs. Registrar, High Court of Judicature, Allahabad and Others, and-- Shiva Nandan Sinha and Others Vs. State of West Bengal, . See in this connection also the remarks of, Lord Chief Justice Hewart in--King v. Swansea Income Tax Commr.

(1925) 2 KB 250 (G).

4. In the facts and circumstances of this case, the Petitioner must be left to his ordinary remedy in the normal way. We dismiss the petition with costs which for the purposes of this case we assess at Rs. 50/-.