
(2015) 03 AP CK 0071
In the Andhra Pradesh High Court
Case No : Writ Petition No. 7499 of 2015

Gaddam Biksham

APPELLANT

Vs

Telangana State Power Generation Corporation Ltd. and
Others

RESPONDENT

Date of Decision : 23-03-2015

Acts Referred:

Penal Code, 1860 (IPC) — Section 149, 307, 380, 457

Citation : (2015) 3 ALD 261 : (2015) 3 ALT 9 : (2016) 148 FLR 97 : (2015) 4 LLN 124

Hon'ble Judges : Nooty Ramamohana Rao, J

Bench : Single Bench

Advocate : K. Satyanarayana Rao, for the Appellant; C. Raghu, S.C., Advocates for the Respondent

Final Decision : Disposed off

Judgement

Nooty. Ramamohana Rao, J.—The petitioner herein, who was employed as a Junior Plant Attendant with Kothagudem Thermal Power Station (KTPS), has been placed under suspension by the Chief Engineer of KTPS at Paloncha for his involvement in Crime No. 66 of 2014 which was registered for the offences under Sections 307, 457 and 380 read with Section 149 of the Indian Penal Code. Heard learned counsel for the petitioner Dr. K. Satyanarayana Rao and Sri C. Raghu, learned Standing Counsel, who has accepted notice on behalf of the respondents.

2. It is contended by Dr. Satyanarayana Rao that the petitioner has been unnecessarily implicated in the crime, at the first instance by the local police, for various other reasons, in spite of the police knowing that the petitioner is no way concerned with the crime. Be that as it may, the learned counsel would further contend that the petitioner has not exhibited any conduct, which is even slightly blameworthy, while he was performing his duties. Admittedly, the crime has taken place near about some temple in a neighbouring area. Even the First

Information Report did not name the petitioner. He was shown as Accused No. 12 amongst 13 accused persons by the police. The learned counsel therefore, would contend that placing the petitioner under suspension, for no fault of his and only on the ground that the police have registered a crime against him, is wholly unjust. The learned counsel has placed reliance upon a judgment rendered by a Division Bench of this Court in P. Rajender Vs. Union of India and another, (2001) 5 ALD 290 as well as the judgment rendered by a learned Single Judge in Writ Petition No. 10583 of 1999 on 18.07.2005 which judgment has been approved by a Division Bench when appealed against in Writ Appeal No. 2027 of 2005 on 20.10.2005. The learned counsel would also urge that consistently this Court has been directing the respondent public authorities to reinstate the employees placed under suspension for their involvement in crimes, which have taken place outside the arena of employment.

3. As a matter of rule of thumb, it cannot be said that an employee in public employment cannot be placed under suspension for the alleged involvement in a crime, which had taken place outside the arena of employment. All employees of the public employment are regulated by an approved code of conduct. Concept of public employment stipulates that such an employee is employed round the clock and on all the days throughout the year. Therefore, every person, who is in public employment, is required to bear a decent and appropriate conduct not only while he performs duty but even outside and beyond the office hours as well. Exhibiting indecent conduct or involvement in offences, which carry moral turpitude, is incompatible with the spirit and status of the public employment. Those in public employment carry with them a status not merely arising out of the contractual obligations. It is de hors and independent thereof. Therefore, all such persons are required to bear an appropriate and decent conduct throughout. It will also be appropriate to notice that the government servants are required to bear the same, even through their retired life for them (sic. they) would secure monthly pension support from the State. Therefore, I am not in agreement with the view point canvassed by Dr. Satyanarayana that involvement in any crime outside the arena of employment by a public servant cannot be viewed with any disfavour and shall not result in placing such an employee under suspension at all.

4. However, it has been repeatedly impressed upon all public employers by this Court as well as the various other High Courts and the Supreme Court that no employee shall be confined to prolonged periods of suspension. Any such prolonged suspension without there being adequate justification for doing so is likely to cause loss of productivity to the organization. It will also harden the individual and the joints would later on become rickety should he get an opportunity to get reinstated.

5. Further, every model employer was called upon to pay substantial portion of the wages towards subsistence allowance during the period of suspension. In return, the employer cannot extract any services from such an employee. In

other words, while keeping the employee away from the place of work, the employer will be saddled with the additional financial burden of paying the substantial portion of wages earned by him as monthly subsistence allowance. Particularly those who are involved in criminal cases, they have very little control over the progress achieved in a criminal Court. Depending upon the density of the docket, the criminal cases are disposed of. Sometimes, the prosecution pursues the matters vigorously, like completing the investigation in quick time and getting ready. More often than not, the prosecution does not evince any interest in speedy disposal of cases where the evidence does not come forth in good volumes and quality. Sometimes the investigation process takes long time to accomplish the task and file a charge-sheet describing the involvement of each of the accused persons. These are all imponderable factors over which the accused persons can hardly have any legitimate control. Therefore, every model employer would reconsider reengaging the employee, who was confined to suspension earlier, no sooner a charge-sheet is filed and the liberty of the employee concerned is not otherwise curtailed by the criminal Court. Sometimes reinstating an employee in public employment may become counterproductive. It may project the employer in poor light in the public view. Therefore, an appropriate balance has to be struck between the two ends of the rainbow.

6. It is therefore, for the 2nd respondent to secure appropriate information from the investigating agency and if he finds delay, in any manner, in completion of the investigation or filing of the charge sheet or proceeding with the prosecution in the criminal Court, reinstatement back to service, perhaps, will be an appropriate course to be adopted. That would save the employer from the further obligation of making substitute arrangements in place of the employee confined to suspension and would also obviate the necessity to pay additionally for the wages of the substitute. Therefore, the 2nd respondent will bear in mind all these factors and also the fact that the First Information Report does not name the petitioner and he was only shown as Accused No. 12, but not as the principal accused, and take an appropriate decision as to whether it would be desirable to reinstate him back to service. Let this exercise be completed as expeditiously as is possible, preferably within a period of three months from the date of receipt of a copy of this order.

7. With this, the Writ Petition stands disposed of. No costs. Consequently, the miscellaneous applications, if any shall also stand disposed of.