
(1998) 07 SC CK 0006

In the Supreme Court Of India

Case No : Civil Appeal No. 8926 of 1994

Government of A.P.

APPELLANT

Vs

P. Posetty

RESPONDENT

Date of Decision : 29-07-1998

Acts Referred:

Andhra Pradesh Civil Services (Conduct) Rules, 1964 — Rule 3(1), 3(3)
Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1961 — Rule 2
Constitution of India, 1950 — Article 371D(5)

Citation : (1999) 10 JT 524 : (2000) 2 SCC 220

Hon'ble Judges : Sujata V. Manohar, J;S. Rajendra Babu, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Delay condoned.

2. The respondent was working as a Sub-Inspector of Police at Togta Police Station in Medak District of the State of Andhra Pradesh from 1975 to 1977. There were certain allegations of illegal detention of certain persons in police custody, their torture etc. by the respondent for corrupt motives. On being satisfied that a prima facie case against the respondent was made out, the case of the respondent was referred to the Tribunal constituted u/s 3 of the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960. The Tribunal framed the following charge against the respondent:

"That you, while working as SI of Police, Togta, from 1975 to 1977, in abuse of your official position, and actuated by corrupt motives, harassed S/Shri S. Bal Reddy, Janki Sathaiah, Kambam Bal Reddy, Katnbam, Lakshmi Reddy, Gadila Malla Reddy, Pogula Rami Reddy and Kambam Veera Malla Reddy by keeping them in illegal police custody and thereby you are guilty of misconduct within the meaning of Rule 2(b) of the rules framed under the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960."

3. After enquiry the Tribunal came to the conclusion that the charge of abuse of official position actuated by corrupt motives was proved against the respondent. The Tribunal sent a report dated 10-12-1981 to the State Government. The State Government thereupon served a second show-cause notice dated 1-4-1982 on the respondent asking him to show cause why the punishment of dismissal from service should not be imposed on him. On receipt of the show-cause notice the respondent filed a proceeding before the Andhra Pradesh State Administrative Tribunal challenging the show-cause notice.

4. The respondent challenged the second show-cause notice on two grounds: (1) the respondent was denied a reasonable opportunity to be heard in the course of the disciplinary proceedings against him by the Tribunal; and (2) the Tribunal had no jurisdiction to enquire into the allegation in question against the respondent. The State Administrative Tribunal has decided the first question against the respondent holding that a reasonable opportunity had been given to the respondent of being heard in the disciplinary proceedings. On the second question, however, the Tribunal came to the conclusion that the Tribunal for disciplinary proceedings had no jurisdiction to enquire into the allegation in question.

5. The findings of the State Administrative Tribunal were not accepted by the State which annulled the order of the State Administrative Tribunal under Article 371D(5) of the Constitution. The said provision in the Constitution, however, was struck down by this Court in the case of *P. Sambamurthy v. State of Andhra Pradesh*, AIR 1987 SC 663 . As a result, the order of the Tribunal revived.

6. In the present appeal the State has challenged the finding of the State Administrative Tribunal to the effect that the Tribunal for disciplinary proceedings had no jurisdiction to enquire into the allegations in question.

7. u/s 4 of the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 the Government shall refer to the Tribunal for enquiry and report such cases as may be prescribed of allegations of misconduct on the part of the government servants. Misconduct is defined in the Andhra Pradesh Civil Services (Disciplinary Proceedings Tribunal) Rules, 1961 in Rule 2(b). Under Rule 2(b) any wilful contravention of rules made under the proviso to Article 309 of the Constitution to regulate the recruitment and conditions of service of persons appointed to such service and post until provision in that behalf is made, would be a misconduct. Such rules are framed by the State of Andhra Pradesh being the Andhra Pradesh Civil Services Conduct Rules, 1964 which apply to the respondent also. Rule 3 Sub-rules (1), (2) and (3) are as follows:

"3. (1) Every government employee shall be devoted to his duty and shall maintain absolute integrity, discipline, impartiality and a sense of propriety.

(2) No government employee shall behave in a manner which is unbecoming of such employee or derogatory to the prestige of Government.

(3) No government employee shall act in a manner which will place his official position under any kind of embarrassment."

8. The charge against the respondent is abuse of his official position actuated by corrupt motives which would clearly amount to a violation of the conduct rules and, in particular, Rules 3(1), 3(2) and 3(3). We, therefore, do not find any substance in the State Administrative Tribunal's finding that the Tribunal for disciplinary proceedings had no jurisdiction to enquire into these charges. The impugned order of the Tribunal is, therefore, set aside. The appellant will be at liberty to proceed with the second show-cause notice and after considering the representation of the respondent, if any, to pass such appropriate order as it may deem fit.

9. The respondent has submitted that after the impugned order of the State Administrative Tribunal and before the stay granted by this Court in the present proceedings the respondent has been promoted. Hence, disciplinary proceedings should not now be continued against him. We do not find any merit in this contention. The promotion of the respondent was on account of the disciplinary proceedings being quashed. Since we have come to the conclusion that the proceedings were wrongly quashed, the Government is entitled to proceed further in the disciplinary proceedings in accordance with law. The appeal is, therefore, allowed with costs.