
(2001) 03 AP CK 0006

In the Andhra Pradesh High Court

Case No : Writ Petition No. 17999 of 1997

P.V. Radhakrishna

APPELLANT

Vs

District and Sessions Judge, Visakhapatnam and another

RESPONDENT

Date of Decision : 28-03-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 3 ALD 660

Hon'ble Judges : S.R. Nayak, J;S. Ananda Reddy, J

Bench : Division Bench

Advocate : Mr. Kesava Rao, for the Appellant; Ms. M. Bhaskara Lakshmi, SC for High Court, for the Respondent

Judgement

S.R. Nayak, J.—The petitioner in this writ petition has assailed the validity and legality of the proceedings dated 18-1-1996 issued by the learned District and Sessions Judge, Visakhapatnam modifying the earlier order imposing the penalty of dismissal from service as a disciplinary measure in pursuance of the directions issued by a learned single Judge of this Court in WP No.13005 of 1992 dated 20-12-1995.

2. A few relevant facts led to the filing of the writ petition be noted briefly: the petitioner was originally appointed as a process server in the establishment of the Visakhapatnam District unit judiciary. Subsequently his services were converted into one of attender. While he was working as such in the office of the I Additional District Judge, Visakhapatnam, the learned Additional District Judge appears to have entrusted a sum of Rs.1,000/- on 30-8-1999 to the petitioner directing him to pay the same towards Life Tax in respect of a motorcycle belonging to the son-in-law of the Judge. According to the learned District Judge, the petitioner did not pay the Life Tax as directed and misappropriated the same. However, it was the case of the petitioner that while he was going to the RTO Office he lost the money on account of pick pocketing. There is no necessity for us to dilate the facts further. Suffice it to state that in an enquiry conducted by

the learned District Judge - disciplinary authority the petitioner was found guilty of the charge levelled against him. On that basis, the learned District Judge passed an order dismissing the petitioner from service. When that action was assailed before this Court in WP No.13005 of 1992, a learned single Judge of this Court was of the opinion that the penalty of dismissal from service was grossly disproportionate to the gravity of the misconduct committed by the petitioner after reaching an opinion that the action of the petitioner in not paying the life Tax was only negligent. So opining the learned single Judge disposed of the writ petition directing the learned District Judge to pass appropriate order of punishment, other than dismissal from service, keeping in view the facts and circumstances of the case and the gravity of the misconduct committed by the petitioner. This order made by the learned single Judge has become final. In pursuance of the direction issued by the learned single Judge, the learned District Judge - disciplinary authority - again reconsidered the quantum of punishment that may be imposed on the petitioner for the proven misconduct. Taking a lenient view and in deference to the view expressed by the learned single Judge of this Court in the aforementioned judgment, the learned District Judge, in substitution of the earlier punishment, directed appointment of the petitioner as a fresh candidate in Last Grade Service in the Vth Metropolitan Magistrate Court, Visakhapatnam. Not being satisfied with the said order, the present writ petition is filed.

3. The learned Counsel for the petitioner would quite vehemently contend that there is absolutely no justification for the learned District Judge to deny the service benefits including back wages to the petitioner by directing his appointment as a fresh candidate. That is the only contention placed before us for our consideration.

4. Should it be noticed at the threshold that it is now well settled in law that the High Court while reviewing the disciplinary action under Article 226 of the Constitution of India cannot act as an appellant authority on merits. As regards the punishment that may be imposed by the disciplinary authority, the only scope under Article 226 of the Constitution for interference is when the High Court finds that the punishment imposed by the employer is shockingly disproportionate to the gravity of the misconduct committed by the delinquent employee. In the instant case, having regard to the finding recorded by the Enquiry Officer and accepted by the disciplinary authority, it cannot be said that the denial of back wages and service benefits to the petitioner by directing him to be appointed as a fresh candidate is shockingly disproportionate to the gravity of the misconduct committed by the petitioner. No ground is made out for our interference.

5. The writ petition fails and it is accordingly dismissed. No costs.