

(2001) 02 AP CK 0011
In the Andhra Pradesh High Court
Case No : Writ Petition No. 1871 of 2001

R.P. Meena

APPELLANT

Vs

Union Of India and others

RESPONDENT

Date of Decision : 06-02-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 2 ALD 143 : (2001) 2 ALT 103 : (2001) 1 APLJ 394

Hon'ble Judges : S.B. Sinha, C.J.; S.R. Nayak, J

Bench : Division Bench

Advocate : Mr. Nooty Ramamohan Rao, for the Appellant; Mr. L. Narasimha Reddy, SC for CG and Government Pleader for Service-III, for the Respondent

Judgement

S.B. SINHA, C.J.

1. The petitioner in this writ petition questions the interlocutory order dated 23-1-2001 passed by the Central Administrative Tribunal, Hyderabad bench, Hyderabad in OA No.92 of 2001 whereby and whereunder the interim prayer for stay of the disciplinary proceedings made by the petitioner has not been acceded to.

2. The main thrust of the long submission of Mr. N. Ramamohan Rao, learned Counsel appearing on behalf of the petitioner is that the petitioner had carried out the directions of this Court and in a proceedings before the Supreme Court of India he has annexed a copy of a document which he had received from somebody and the same cannot be said to be a misconduct. We, in this proceeding, are not called upon nor are competent to pronounce a judgment on the aforementioned submission.

3. The question as to whether the petitioner has committed misconduct or as to whether the departmental proceedings should proceed or not is now pending consideration before the Central Administrative Tribunal. This Court will have jurisdiction to decide the said question only when the Tribunal decides the matter

one way or the other.

4. The High Court, having regard to the power of judicial review, exercises a limited jurisdiction. It is not all orders, which could be interfered with. But contentions although the submission of Mr. N. Rama Mohan Rao seems to be, we are of the opinion, that it is not a case where prejudice will be caused to the petitioner if he files his show-cause or takes part in the disciplinary proceedings without prejudice to his rights and contentions. If he is in a position to show that the charges levelled against him do not amount to misconduct, the question of proceeding with the departmental enquiry would not arise. But such question is now a debatable one as has been held by the Tribunal and only because the Tribunal has not stayed the departmental proceedings, we are of the opinion, the same cannot be said to have caused prejudice to the petitioner. Mr. N. Ram Mohan Rao, learned Counsel, submits that he being a Deputy Inspector-General of Police has to cross-examine the Director and Inspector-General of Police or other authorities. We are not called upon to address ourselves with regard to the said question inasmuch as if he has to do the same he has to do it in his own defence. The same by itself may not be a ground for passing interim order at this stage.

5. Mr. Ram Mohan Rao lastly points out that whereas in the charges only an attempt of theft has been alleged, the learned Tribunal proceeded on the basis that the misconduct alleged is that of theft committed by the petitioner. Even such a slight mistake, if any, in our considered opinion, would not have caused any difference, having regard to the limited jurisdiction of this Court in interfering with such interlocutory orders. We are of the opinion that this is not a fit case wherein this Court should exercise its extra-ordinary jurisdiction. Having regard to the facts and circumstances of this case, we would request the learned Tribunal to hear out and dispose of the main matter as expeditiously as possible, preferably within a period of one month from the date of communication of a copy of this order.

6. The writ petition is dismissed with the aforementioned observations. However, this order shall not preclude the petitioner from making an application to the Enquiry Officer seeking deference of the enquiry, who may upon consideration of the matter, pass appropriate orders, having regard to the fact that the main question as to whether the petitioner committed misconduct or not is pending before the Tribunal. No costs.