
(1996) 06 AP CK 0014
In the Andhra Pradesh High Court
Case No : Writ Petition No. 1902 of 1996

T. Inna Reddy

APPELLANT

Vs

The District Educational Officer and Another

RESPONDENT

Date of Decision : 26-06-1996

Acts Referred:

Andhra Pradesh Education Act, 1982 — Section 79, 79(3)

Citation : (1996) 4 ALT 316

Hon'ble Judges : Lingaraja Rath, J; B.S. Raikote, J

Bench : Division Bench

Advocate : Nooty Rama Mohana Rao, for the Appellant; Govt. Pleader for 1st Respondent, for the Respondent

Final Decision : Allowed

Judgement

Lingaraja Rath, J.—On a reference made by a learned Single Judge of this Court by order dated 12-4-1996, this case has come up before us.

2. The question arising in this case is the correctness of an order of suspension passed against the teacher of an aided educational institution because of his arrest in connection with a criminal case and his liability to continue under suspension beyond four months. The writ petitioner was arrested on 15-6-1995 in connection with the allegations u/s 420, 468 and 471 IPC and was released on the same day on bail. The order of suspension was passed by the Special Officer, Headmaster and Correspondent of the School, respondent No. 2 stating that as the District Educational Officer had informed that the petitioner had been arrested on 15-6-1995 for his involvement in criminal cases, he was being placed under suspension under Rule 19(i) of G.O. Ms. No. 1 in public interest with effect from 15-6-1995 till the enquiry on the allegations is completed. On 17-1-1996 his suspension was extended by two months.

3. Section 79 of the A.P. Education Act, 1982, hereinafter referred to as "the Act", makes the provision that suspension shall remain in force for not more than

two months and that if an enquiry is not started and completed within that period, he would be deemed to have been restored as the employee but that the competent authority may for reasons recorded in writing extend the period of suspension for a period not exceeding two months. The power can be exercised by the competent authority if in his opinion the enquiry cannot be completed within two months for reasons directly attributable to such employee.

4. It is clear on a reading of Section 79 of the Act that the suspension contemplated under sub-section (3) of the Section is one related to the departmental enquiry initiated or to be initiated. To our pointed query, the learned Government Pleader submits that beyond the provisions of Section 79 there is no other provision applicable to the teachers of aided educational institutions making them liable to be put under suspension for arrest or involvement in criminal cases as are provided for Government employees.

5. From a reading of the order of suspension it is not clear as to whether suspension was directed because of contemplation of departmental enquiry proceedings. But the order is specific that suspension was being made because of the petitioner's involvement in criminal cases. It is of course competent for the management to also proceed against him departmentally but in such a case the suspension cannot be effective beyond a maximum period of four months. A Division Bench of this Court in the decision in *Dr. Sr. Y. Philomena, Principal and Correspondent, St. Ann's College for Women Vs. Government of A.P., Education and Others*, held as under:

"The implications of Section 79 of the Act are mandatory. An enquiry instituted u/s 79(1) of the Act shall be completed within a period of two months from the date of communication of the charges. The order of the suspension shall be co-extensive with such a period and comes to an end on the expiry of the period of two months from the date of suspension. If either the inquiry is not started or completed within the period of two months from the date of suspension, the employee so suspended shall be deemed to have been restored. Such period of two months can be extended for a further period not exceeding two months if the inquiry could not be completed within the initial period of two months for reasons directly attributable to such employee. As a whole, the period of suspension cannot exceed four months from the date of suspension or even from the date of communication of charges. Immediately on the expiry of such period of four months, the employee so suspended shall be deemed to have been restored as employee."

In the instant case the suspension has not been extended by the competent authority also and hence by operation of sub-section (3)(b) of Section 79 of the Act the petitioner would have been deemed to have been restored to his office, if his suspension was in relation to any departmental proceeding.

6. Though respondent No. 2 has been served with notice he does not appear. Since It is conceded by the learned Government Pleader that there is no

corresponding provision applicable to the teachers of aided educational institutions making them liable for suspension because of their involvement in criminal cases and arrest, the concept of such provisions as are applicable to Government employees are not ipso facto attracted to them. But since it is the inherent right of the Master to place a servant under suspension, which would mean putting him off the duties to discharge, it cannot be doubted that even apart from the scope of Section 79 of the Act, the management would have the right to place the petitioner under suspension and that no statutory limitation as stipulated in Section 79(3)(a) is applicable to such suspension. But in such a case there cannot be any reduction of pay of the employee there being no authority for the same. Suspension does not mean an end of the relationship between the Master and the Servant. The relationship remains animated but in abeyance would entitle the employee to receive his full wages during the period of suspension even though he is commanded by the Master not to discharge the duties. Such rights and liabilities of the Master and the Servant are liable to statutory control as is found in Section 79 of the Act but save and except (sic. except) the field covered by the statutory provision, the rights of both the parties remain as regulated under the contract of service. There is no independent contract pleaded by the respondent No. 2 of a right in the management to suspend the employee and to pay at a reduced rate. The stand of the petitioner must hence be taken to have been fully vindicated.

7. In the result, the writ petition is allowed with costs and, whether or not the petitioner is continued under suspension, the respondents are directed to pay his full pay and allowances for the whole period of suspension less any amount already received by the petitioner as subsistence allowance. The arrears of the petitioner be paid to him within two months from the date of receipt of the order and the current salaries shall be paid to him regularly. Hearing fee Rs. 500/-.