

(2008) 03 AP CK 0037
In the Andhra Pradesh High Court
Case No : Writ Petition No. 6129 of 2008

W. Giridhar Rao

APPELLANT

Vs

Executive Director (Personnel) Disciplinary Authority and
Another

RESPONDENT

Date of Decision : 24-03-2008

Acts Referred:

Citation : (2008) 4 ALD 76 : (2008) 4 ALT 297 : (2009) 1 LLJ 92

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : P.B. Vijay Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The petitioner joined the Life Insurance Corporation of India as Development Officer in the year 1994. He was promoted to the post of Assistant Manager, and thereafter as Branch Manager, Guntur. When he was working as Manager of the City Branch, Visakhapatnam, a trap was laid by C.B.I., and he was caught red handed, while receiving a sum of Rs. 10,000/-, from a policy holder. On the basis of the successful trap laid on the petitioner, prosecution was launched through C.C. No. 2 of 2003 on the file of the Special Judge for C.B.I. & S.P.E. Cases, Visakhapatnam. Departmental proceedings were also initiated, by issuing a charge-sheet.

2. Petitioner filed W.P. No. 25318 of 2002, alleging that the charges framed against him are vague, in many respects. An order of interim stay was granted in W.P.M.P. No. 31964 of 2002. The Corporation filed a W.V.M.P. No. 25879 of 2003. On 21.10.2003 this Court passed an order, making the interim stay absolute, but leaving it open to the Corporation to issue fresh charge-sheet. Accordingly fresh charge-sheet was issued, on 3.9.2004.

3. In C.C. No. 2 of 2003, the trial Court found the charge against the petitioner proved, through its judgment dated 28.2.2007, and it sentenced the petitioner to

undergo imprisonment for a term. Aggrieved thereby, the petitioner filed Criminal Appeal No. 438 of 2007, before this Court. In CrI. A.M.P. No. 31964 of 2002, the sentence ordered against the petitioner was suspended. In the meanwhile, the Corporation had resumed the disciplinary proceedings. The petitioner contends that the disciplinary proceedings cannot be resumed or continued, in view of the pendency of the appeal. It is urged that the petitioner would be subjected to prejudice and jeopardy, in case the departmental proceedings are taken up, even while the criminal appeal is pending.

4. Sri P.B. Vijaya Kumar, learned Counsel for the petitioner submits that the Corporation itself was of the view, that it cannot proceed with the departmental inquiry, during the pendency of C.C. No. 2 of 2003, and though the trial Court rendered its judgment, virtually the same state of affairs continues, on account of the pendency of the appeal before this Court, and the stay granted therein.

5. The basis for initiation of criminal proceedings under the Prevention of Corruption Act (for short "the Act"), as well as the departmental proceedings, was the trap, laid by the C.B.I. Though the parameters for proving the charges in the two sets of proceedings are different, the nature of evidence that is needed to prove them is almost similar, if not overlapping. Obviously, for that reason, the Corporation did not proceed with the departmental inquiry, during the pendency of the C.C., lest the petitioner is compelled to disclose his defence, even while the proceedings under the Act are pending. However, once the trial Court rendered its judgment and convicted the petitioner, the taboo upon the departmental proceedings stands revoked.

6. It may be true that the sentence handed out to the petitioner herein in C.C. No. 2 of 2003 was suspended by this Court, pending appeal, preferred by him. However, the pendency of the appeal cannot be treated as a factor to stay the departmental proceedings. The petitioner had already disclosed his defence before the trial Court, and it was taken into account. The Appellate Court has to examine the same evidence, and there is nothing, that the petitioner has to adduce at the stage of appeal. The justification that warrants the stay of departmental proceedings during the trial of a case, into the very charge, does not exist or survive at the stage of appeal. The limited context in which the departmental proceedings are to be kept on hold, during the trial of a case, against an employee; ceases to exist, with the disposal of the criminal case. It must be noted that even where the criminal case ended in acquittal, it shall be open to an employer, to proceed with the departmental enquiry.

7. This Court does not find any basis to interfere with the departmental proceedings. The writ petition is accordingly dismissed.

8. There shall be no order as to costs.