

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION No.40486 of 2022

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Pratap Narayan Sanghi, learned Senior Counsel representing Mr. Avadesh Narayan Sanghi, learned counsel for the petitioner.

Ms. Shailaja.R, learned counsel representing Mr. Swaroop Oorilla, learned Standing Counsel for the High Court for the State of Telangana for the respondents.

2. With the consent of the parties, the mater is heard finally.

3. In this writ petition, the petitioner has assailed the validity of the order dated 13.11.2018 by which the punishment of dismissal from service has been imposed on the petitioner. The petitioner has also assailed the validity

of the order dated 08.01.2021 passed by the appellate authority by which the appeal preferred by the petitioner has been dismissed. The petitioner has further prayed for a direction to reinstate him with arrears of salary, increments and all other service benefits.

4. Facts giving rise to filing of this writ petition briefly stated are that the petitioner at the relevant time was posted as Office Subordinate in the Court of Additional Senior Civil Judge, Karimnagar. The petitioner remained unauthorisedly absent from his duties from 03.08.2017 to 07.08.2017 without any application seeking leave. Thereafter, by an office memorandum dated 07.08.2017, the Principal District and Sessions Judge, Karimnagar, instructed the Additional Senior Civil Judge, Karimnagar, to initiate action as per the rules. The Additional Senior Civil Judge, Karimnagar, issued a memo dated 09.08.2017 asking the petitioner to submit his explanation with regard to his unauthorised absence from 03.08.2017 to 07.08.2017 within a period of three days.

5. Thereupon, the petitioner submitted his explanation on 22.08.2017 along with an application seeking leave on the ground that he was suffering from severe stomach pain. Along with the said application, a medical certificate issued by the doctor, namely Dr. Bommaraveni Swamy Mudiraj, Medical Practitioner, was also annexed. In the explanation, the petitioner stated that on account of high fever, vomitings and motions the petitioner consulted Dr. Bommaraveni Swamy Mudiraj, Medical Practitioner, Manakondur, and on the doctor's advice, he was admitted in the hospital from 03.08.2017 to 07.08.2017 and was bedridden.

6. On receipt of the explanation submitted by the petitioner, the Additional Senior Civil Judge – cum – Additional Assistant Sessions Judge, Karimnagar, issued a notice dated 26.10.2017 to Dr. Bommaraveni Swamy Mudiraj, Medical Practitioner, requiring him to appear before the said Judge on 28.10.2017 with complete record of treatment offered to the petitioner. The said Medical Practitioner appeared before the said Judge on 28.10.2017

and gave his statement that the medical certificate dated 07.08.2017 bearing the name of Sai Teja Clinic was not issued by him and he was not authorised to issue such certificate certifying admission of such patients as in-patients. It was further stated that he was not having Nursing Home to admit patients and the said medical certificate might have been fabricated.

7. Thereupon, the Principal Senior Civil Judge, Karimnagar, Full Additional Charge, Additional Senior Civil Judge, Karimnagar, submitted a detailed report dated 15.12.2007 to the Principal District and Sessions Judge, Karimnagar, apprising him about the unauthorised absence of the petitioner from duties from 03.08.2017 to 07.08.2017 without intimation to the office. It was further pointed out that in order to get rid of the unauthorised absence, the petitioner has fabricated the medical certificate by playing false story about his illness. Thereupon, a show cause notice dated 08.02.2018 was issued to the petitioner by the Principal District and Sessions Judge, Karimnagar. The petitioner submitted his

explanation on 12.02.2018 in which it was stated that he was suffering from dehydration from the night since 02.08.2017 with severe pain in legs and was not in a position to discharge his duties and therefore, he could not attend to the duties. The petitioner in his reply further stated that he was an illiterate person and cannot forge or fabricate any document.

8. Thereafter, the disciplinary proceedings were initiated against the petitioner by serving him the articles of charges dated 03.03.2018. The aforesaid articles of charges read as under:

ARTICLE-I:-

That you, Sri K.Rajaiah, Office Subordinate, Court of the Addl. Senior Civil Judge, Karimnagar have remained absent from attending duty from 3.8.2017 to 7.8.2017 and it is without applying casual leave or without prior permission of the Officer and it is intentionally, thereby causing much inconvenience to the day to day office work and in spite of giving explanation memo, you did not submit any explanation within the stipulated time, which shows your gross negligence and dereliction of duties and such behavior is of unbecoming of a Government servant much less in Judicial Department, which also amounts to misconduct and that you

behaved in a derogative manner and you thereby liable for punishment under Rule 20 of the APCS (CC&A) Rules, 1991.

ARTICLE-II:-

That you, Sri K.Rajaiah, Office Subordinate, Court of the Addl. Senior Civil Judge, Karimnagar have submitted explanation on 22.8.2017 with a fabricated Medical Certificate of Bommanaveni Swamy, Medical Practitioner stating that you have taken treatment with him, which shows your gross mischief towards the Court and such behavior is of unbecoming of a Government servant much less in Judicial Department, which also amounts to misconduct and that you behaved in a derogative manner and you thereby liable for punishment under Rule 20 of the APCS (CC&A) Rules, 1991.

9. The charges were served on the petitioner on 07.03.2018 and thereafter the departmental enquiry against the petitioner was conducted. The Enquiry Officer submitted the report on 16.10.2018 in which both the charges levelled against the petitioner were found to be proved. Thereafter, a final show cause notice dated 19.10.2018 was issued to the petitioner by which he was asked to show cause as to why the major penalty be not

imposed on him. The petitioner submitted his reply. Thereafter, by an order dated 13.11.2018, the disciplinary authority imposed the penalty of dismissal from service. The petitioner preferred an appeal. The appellate authority, however, by an order dated 08.01.2021 confirmed the order passed by the disciplinary authority. In the aforesaid factual background, this writ petition has been filed.

10. Learned Senior Counsel for the petitioner submitted that before conducting the enquiry, the statement of Dr. Bommaraveni Swamy Mudiraj, Medical Practitioner, was recorded and therefore the departmental enquiry was conducted with a preconceived notion against the petitioner. It is further submitted that the appellate authority did not assign any reasons while dismissing the appeal preferred by the petitioner. It is also argued that the petitioner has rendered 28 years of service and in the facts and circumstances of the case, imposition of penalty of dismissal from service is grossly disproportionate and is excessive for the unauthorised absence for a mere period of five days.

11. We have considered the submissions made on behalf of the petitioner.

12. In **State of Andhra Pradesh v. S.Sree Rama Rao**¹, it has been held that High Court in a proceeding under Article 226 of the Constitution of India does not sit as a court of appeal over the decision of the authorities holding a departmental enquiry. It is only concerned to determine whether the enquiry held by an authority competent in that behalf and according to the procedure prescribed in that behalf and whether the rules of natural justice have been followed. It has also been held that where there is some evidence which the authority entrusted with the duty of holding an enquiry has accepted and which may support the conclusion. It is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. Similar view was reiterated in **B.C.Chaturvedi v. Union of India**². In **High Court of Judicature at Bombay through its Registrar v.**

¹ AIR 1963 SC 1723

² (1995) 6 SCC 749

Shashikanth S. Patil³, it was held that interference with the decision of the departmental authorities is permitted if such authority has held the proceedings in violation of the principles of natural justice or in violation of statutory regulations providing the mode of departmental enquiry. [Also See: **Pravin Kumar v. Union of India**⁴].

13. In **State Bank of Bikaner and Jaipur v. Nemichand Nalwaya**⁵, it has been held that no interference shall be made in a disciplinary proceeding on the ground that another view is possible on the basis of material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of evidence and reliable nature of evidence will not be a ground for interfering with the findings. In **State of Bihar v. Phulpari**⁶, it has been held that standard of proof in the criminal proceeding and the departmental enquiry is different. In a criminal case, the standard of proof is beyond reasonable doubt, whereas in the departmental

³ (2000) 1 SCC 416

⁴ (2020) 9 SCC 471

⁵ (2011) 4 SCC 584

⁶ (2020) 2 SCC 130

enquiry the charges have to be proved on the basis of preponderance of probabilities.

14. It is equally well settled legal proposition that the question of choice of quantum of punishment is within the jurisdiction and discretion of the disciplinary authority. The court can while undertaking the judicial review of the matter is not supposed to substitute its own opinion on reappraisal of facts. In exercise of power of judicial review, the court can interfere with the punishment imposed when it is found to be totally irrational or is outrageous in defiance of logic. This limited scope of judicial review is permissible and interference is available only when the punishment is shockingly disproportionate, suggesting lack of good faith. Otherwise, merely because in the opinion of the court, lesser punishment would have been more appropriate, cannot be a ground to interfere with the discretion of the departmental authorities. [See: **Dadra & Nagar Haveli v. Gulabhia M. Lad**⁷ and **Chief Executive**

⁷ (2010) 5 SCC 775

**Officer, Krishna District Cooperative Central Bank Ltd.
v. K.Hanumantha Rao⁸].**

15. In the backdrop of the aforesaid well settled legal principles, we may advert to the facts of the case in hand. The disciplinary enquiry against the petitioner has been held in accordance with the rules. There has been no infraction while conducting the departmental enquiry.

16. We have perused the explanation submitted by the petitioner. It is not his case that the medical certificate has not been issued by Dr. Bommaraveni Swamy Mudiraj. The fact that Dr. Bommaraveni Swamy Mudiraj was asked to appear before the Additional Senior Civil Judge – cum – Additional Assistant Sessions Judge, Karimnagar, before initiation of departmental enquiry does not result in any prejudice to the petitioner. It is pertinent to note that the aforesaid doctor was examined during the course of the enquiry and was cross examined by the petitioner.

⁸ (2017) 2 SCC 528

17. The findings of fact record by the Enquiry Officer are based on the material available on record and by no stretch of imagination can be said to be perverse. At the first blush, the argument made by the learned Senior Counsel for the petitioner that punishment imposed on the petitioner is disproportionate appears to be attractive. However, the gravamen of the charges against the petitioner is not with regard to the period of unauthorised absence, but in enclosing the fabricated medical certificate.

18. Discipline has to be maintained in the institution which imparts justice to the citizen. Therefore, in the facts of the case, even though the same may appear to be seemingly a hard case for the petitioner, no case for interference with the order passed either by the disciplinary authority or by the appellate authority is made out taking into account the fact that the petitioner had fabricated the medical certificate and produced the same in the proceedings before the Additional Senior Civil Judge – cum – Additional Assistant Sessions Judge, Karimnagar.

19. For the aforementioned reasons, the writ petition fails and is hereby dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

ALOK ARADHE, CJ

ANIL KUMAR JUKANTI, J

12.02.2024
vs