

Govt. of Andhra Pradesh

Vs

C.Muralidhar

(S.C. Agarwal, G.T. Nanavati JJ)

22.07.1997

JUDGMENT

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S.C.AGRAWAL, J.

1. Special leave granted.

2. C. Muralidhar, the respondent herein, was employed as Motor Vehicle Inspector with the Government of Andhra Pradesh. In 1987 a Criminal case (C.C. No. 8 of 1987) was filed against him wherein he was prosecuted for the offence punishable under the Prevention of Corruption Act, 1947 for holding assets disproportionate to his known sources of income. Disciplinary proceedings were also initiated against the respondent on the basis of a charge memo dated January 21, 1988 issued by the Enquiry Officer under Rule 19(2) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963. Some of the charges in the said charge memo related to holding of assets disproportionate to the known sources of income while some charges related to his having acquired the assets without permission of the department in violation of Andhra Pradesh Civil Services (Conduct) Rules, 1964. The respondent filed R.P. No. 3714 of 1989 before the Andhra Pradesh Administrative Tribunal (hereinafter referred 'the Tribunal') wherein he assailed the validity of the charge memo dated January 21, 1988 on the ground that in view of the pendency of the criminal case wherein he was being prosecuted on the charge of possessing assets disproportionate to the known sources of income, the initiation of disciplinary proceedings for the same charge was illegal. During the pendency of the said petition before the Tribunal the Special Judge of SPE & ACB cases, Nellore, by his judgment dated April 28, 1994, acquitted the respondent of the charge under Section 5(1)(e) read with 5(2) of Prevention of Corruption Act for possession assets disproportionate to the known source of income. The aforesaid decision in the criminal case was not brought to the notice of the Tribunal when R.P.No. 3714 of 1989 was taken up. The Tribunal, while disposing of the said petition on March 1, 1995, observed that further information was not made available to the Tribunal regarding the criminal case and directed that if the criminal case has already been disposed of and the judgment has become final so far as the issue pertaining to the disproportionate assets is concerned, the departmental enquiry cannot be held for the very same charge of possessing assets disproportionate to the known sources of income. The Tribunal was, however, of the view that other charges in departmental proceedings that the respondent acquired the assets without permission of the department are not part of the charge in the criminal case before the Special Judge and the Tribunal, therefore, directed that it would be open to the authorities to proceed with the charges regarding the acquisition and disposing of properties without permission of the Government or the department or of delinquencies as required under the Government Servant's Conduct Rules. After taking note of the judgment of Special Judge dated April 28, 1994 in the criminal case filed against the respondent, the Government of Andhra Pradesh passed an order,

G.O.Ms. No. 74 dated April 24, 1995, whereby it was decided:-

"The Government after careful examination of the matter, have decided that further action in the criminal case of allegation of disproportionate assets against Sri C. Muralidhar, Motor Vehicle Inspector, be dropped, since he was acquitted by the ACB Court and found not guilty of the allegation."

3. In the said order there is no reference to the judgment of the Tribunal dated March 1, 1995 in R.P. No. 3714 of 1989.

4. On February 20, 1996 a fresh charge memo (No. 50236/XI/83) was issued to the respondent under Rule 20(4) of the Andhra Pradesh Civil Services (Classification, Conduct and Appeal) Rules, 1991. The said charge memo related to violation of the Andhra Pradesh Civil Services (Conduct) Rules, 1964 for acquiring and disposing of properties without informing and taking permission from the Government for the same. The respondent filed another petition (O.A. No. 2250 of 1996) before the Tribunal challenging the validity of the said charge memo issued on February 20, 1996. The said petition has been allowed by the Tribunal by the impugned judgment dated June 4, 1996. The Tribunal has held that in view of G.O.Ms. No. 74 dated April 24, 1995 dropping the disciplinary action initiated against the respondent, it was not open to subordinate authority to initiate disciplinary action by issuing charge memo dated February 20, 1996. The Tribunal has, therefore, set aside the said charge memo. Hence this appeal.

5. We have heard Shri K.Ramkumar, the learned counsel appearing for the appellant and Shri L.Nageswar Rao, the learned counsel for the respondent.

6. The judgment of the Tribunal dated March 1, 1995 in R.P.No. 3174 of 1989 was confined to charges relating to possessing assets disproportionate to known source of income wherein the Tribunal had held that disciplinary proceedings on the said charges could not be held. In the said judgment the Tribunal had clearly indicated that other charges in the disciplinary proceedings viz., that the respondent had acquired assets without permission of the Government or department, were not part of the charge before the Special Judge of SPE and ACB cases and it was open to the authorities to proceed with the charges regarding acquisition or disposing of properties without permission of the Government or the department or of other delinquencies as required under the Government Servants' Conduct Rules. Though the said judgment of the Tribunal dated March 1, 1995 has not been referred to in the order, G.O.Ms. No. 74 dated April 24, 1995 passed by the Government but the said order is also confined in its application to the disciplinary proceedings in so far as they related to charge of possessing assets disproportionate to known source of income because in the said order reference has been made to the judgment of the Special Judge dated April 28, 1994 whereby the respondent was acquitted of the charge under Section 5(1)(e) read with Section 5(2) of the Prevention of Corruption Act. The direction regarding dropping of proceedings in the order, G.O.Ms. No. 74 dated April, 1995, has to be confined to the charge of which the respondent was acquitted in the criminal case. We are unable to construe the said order of the Government dated April 24, 1994 as containing the direction that disciplinary proceedings against the respondent in respect of other charges regarding acquisition and disposing of properties without permission to the Government or the department as required under the Andhra Pradesh Civil Service Rules 1964 were also directed to be dropped. In the circumstances we do not find any infirmity in the charge memo dated February 20, 1996 issued in respect of charges involving violation of Andhra Pradesh Civil Service (Conduct) Rules, 1964 in acquiring or disposing properties without permission of the Government or the department.

7. The appeal is, therefore, allowed, the impugned judgment of the Tribunal dated June 4, 1996 is set aside and O.A. No. 2250 of 1996 filed by the respondent is dismissed. This matter has been pending since long. The disciplinary authority is directed to conclude the disciplinary proceedings initiated on the basis of the charge memo dated February 20, 1996 expeditiously, preferably within a period of one year. No order as to costs.