

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1130 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22/06/2004 in WPMP No. 20171 of 2001 and WVMP No. 916 of 2004 in WP NO : 16254 OF 2003 on the file of the High Court.)

Between:

- 1 A.P.State Civil Supplies Corporation Ltd., Civil Supplies Bhavan,
Somajiguda, Hyderabad rep.by its Vice Chairman and Managing Director.
- 2 The District Manager, A.P.State Civil Supplies Corporation Ltd.,
Adilabad, Adilabad District.

..... APPELLANTS

AND

- 1 D.Babu Rao, S/o.D.Ganga Raju,
Assistant Grade III, O/o.The District Manager,
Ranga Reddy District, APSCSCL, Ranga Reddy District.
- 2 The District Collector, Mahaboobnagar, Mahaboobnagar District.
- 3 The Revenue Divisional officer, Gadwal, Mahaboobnagar District.

(R2 and R3 are not necessary parties in the W.A.)

.....RESPONDENTS

Counsel for the Appellant: MS.C.SINDHU KUMARI

Counsel for the Respondent NO.1: MR.K.SITA RAM

The Court at the admission stage made the following :

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ORDER: (PER THE HON'BLE MRS JUSTICE T.MEENA KUMARI)

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This appeal is preferred under Clause 15 of the Letters of Patent, against the order dated 22-06-2004 made in W.V.M.P.No.916 of 2004 in W.P.M.P.No.20171 of 2004 in W.P.No.16254 of 2003, passed by the learned Single Judge of this Court.

The brief facts of the case are as follows:

Appellants herein are the respondents 1 and 4 and 1st respondent herein is the writ petitioner in the W.P.No.16254 of 2003. For the purpose of convenience, the parties are referred to as arrayed in the writ petition.

Writ petitioner joined in the respondents-corporation in the year 1982 as Canteen Supervisor and his services have been regularized as Assistant Grade III and was posted to District Manager Office, Mahaboobnagar, as Incharge of Mandal Level Stock point Narayanpet, Mahaboobnagar District. It is stated that while so, during reconciliation of accounts for the year 1996-97, the respondent authorities found certain irregularities committed by the petitioner. On 14-07-1997, a charge Memo was issued by the Joint Collector E.O. E.D. In response to the said charge memo, the petitioner submitted his explanation on 4-08-1997. Without considering the explanation submitted by the petitioner, the Joint Collector, E.O. E.D. vide proceedings NO. P.Admn.29(61)/97

dated 20-05-1998, directed the 1st respondent-Vice Chairman of the corporation to conduct enquiry into the matter. The Revenue Divisional Officer, Gadwal who was appointed as Enquiry Officer, after conducting a detailed enquiry into the matter, submitted his report in L.R.No.3437/98, fixing the liability on the petitioner. Again the 1st respondent-Vice Chairman of the corporation appointed the Zonal Manager, who is the

4th respondent as another enquiry officer to enquire into the matter. The 4th respondent-District Manager framed four charges against the writ petitioner and submitted his report to the 1st respondent. The

1st respondent having gone through the enquiry reports issued a show cause notice to the

petitioner calling for explanation why he shall not be removed from service. Pursuant to the show cause notice, the petitioner submitted his explanation dated 5-5-2002 stating that as a responsible employee he paid a sum of Rs.2,97,420.50 ps. Accepting the said explanation, on the other hand, the respondents authorities came to a conclusion that the petitioner intentionally and fraudulently misappropriated the amount, and as a measure of punishment, by order dated 2-1-2003 ordered stoppage of two annual grade increments without cumulative effect and recovery of Rs.2,97,420.50 in 110 monthly instalments at the rate of Rs.2,703.85 ps per month with effect from January, 2003 towards shortages. Being aggrieved of the above proceedings in P.Admn. A4/2288 dated 2-1-2003 passed by the 1st respondent as confirmed by the appellate authority by its endorsement dated 22-07-2003, the petitioner invoked the jurisdiction of this court under Article 226 of the Constitution of India.

The learned single Judge of this court, while admitting the writ petition on 05-08-2003, granted interim suspension only to the extent of recovery of Rs.2,97,420.50 ps. pending further orders in the main writ petition. Subsequently, the respondents-corporation filed vacate stay petition stating that if recovery is stayed huge loss will be caused to the Government wherein public money is involved. On the vacate stay petition in W.V.M.P.No. 916 of 2004, a learned Single Judge of this Court passed orders on 22-06-2004 and the same is extracted as hereunder:

“By the impugned order dt. 22-07-2003 an amount of Rs.2,97,420.50 ps. Was directed to be recovered from the petitioner towards double the cost of the amounts allegedly misappropriated by him. Prima facie, while the amount of loss could be recovered, recovery of double the amount of loss does not appear permissible under the disciplinary and control rules applicable to the petitioner.

In the circumstances, the interim order dt. 5-08-2003 confirming the impugned order of the appellate authority only to the extent of recovery of the amounts specified. Warrants no interference, particularly in the context of the fact that the actual cost has already been recovered from the petitioner. The stay is, therefore, operative only as regards ‘double the cost of the amounts misappropriated’, portion of the order “.

Assailing the said order, the respondents-corporation filed the present appeal.

Heard both sides.

We have perused the entire material available on record as well as the order impugned in this appeal.

The respondents-corporation filed this appeal against the order passed on the vacate stay

petition. Since the point for consideration is whether the petitioner is liable to pay double the cost of the amounts misappropriated has to be decided in the main writ petition. Therefore, we are not inclined to express any opinion on the merits of the case. Instead, we are of the view that the interest of justice would be met, if the writ petitioner is directed to deposit an amount of Rs.50,000/- (Rupees fifty thousand only) to the credit of the respondents-corporation as an interim measure on or before 30-09-2005 . On such deposit, the respondents-corporation is entitled to withdraw the same without furnishing any security.

With the above direction, the Writ Appeal is disposed of. No costs.

Post the Writ Petition for final hearing on 20-10-2005.

T.MEENA KUMARI, J

Dt. 21-06-2005

P.LAKSHMANA REDDY, J

Mjl/*

To,

- 1 A.P.State Civil Supplies Corporation Ltd., Civil Supplies Bhavan,
Somajiguda, Hyderabad rep.by its Vice Chairman and Managing Director.
- 2 The District Manager, A.P.State Civil Supplies Corporation Ltd.,
Adilabad, Adilabad District.
3. The District Collector, Mahaboobnagar, Mahaboobnagar District.
4. The Revenue Divisional officer, Gadwal, Mahaboobnagar District.
5. 2 CD COPIES.
6. One copy to the Section Officer, Writ Filing Section, High Court of A.P.Hyderabad.