

IN THE HIGH COURT OF TELANGANA AT HYDERABAD**W.P. No. 12075 of 2019**

Between:

Dr T.Ranjith

... Petitioner

And

The English and Foreign Languages University

... Respondent

JUDGMENT PRONOUNCED ON: 01.11.2022

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 12075 of 2019**

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Dr T.Ranjith

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.....Respondent

< Gist:

> Head Note:

! Counsel for the Petitioners : Mr Kowturu Pavan Kumar

^Counsel for the Respondents:

Standing counsel for respondent

? Cases Referred:

(2019) 6 SCC 155

(1995) Suppl. 1 SCC 187,

(2010) 13 SCC 311

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 12075 of 2019**

Heard the Learned Counsel for the Petitioner and learned standing counsel for the Respondents

2. This writ petition is filed to issue writ, order or direction preferably writ of Mandamus, declaring the Memorandum No. EFLU/Admn./F1990/2019/104, dated 30.04.2019 issued by the respondent proposing to initiate disciplinary proceedings against the petitioner on the basis of SPARSH Committee Report as illegal, arbitrary and violative of principles of natural justice and violative of Articles 14 and 21 of the Constitution of India and consequently, set aside the same along with the suspension order No. EFLU/Admn./F1990/2019/1395, dated 25.01.2019.

3. The case of the petitioner, in brief, is as follows:

a) The petitioner is an Assistant Professor in the respondent university in the Department of Communication. One P.Priya lodged a Crime No.25 of 2019 before the Osmania University Police Station arraying the petitioner as an accused and the complaint was registered under Sections 417, 420, 376(1), 323, 506 IPC.

b) Against the said criminal case, the respondent issued suspension order No. EFLU/Admn./F1990/2019/1395, dated 25.01.2019. Therefore, the petitioner submitted representations on 31.01.2019, 06.03.2019 and 23.04.2019 for revocation of his suspension, but there is no response.

c) Meanwhile, the respondent conducted an internal enquiry on the Sexual Harassment of Women at Work Place (Prevention) Prohibition Redressal Act, 2013. The petitioner attended SPARSH Committee enquiry. The SPARSH Committee was biased and functioned in a manner unlikely of a quasi judicial body by not adhering to the laid out norms and procedures as per the Act.

d) Thereafter, even without furnishing a copy of final report of the SPARSH committee, the petitioner received Memo No. EFLU/Admn./F1990/2019/104, dated 30.04.2019, alleging moral turpitude on the part of the petitioner. Hence, this writ petition.

4. The case of the respondent, in brief, is as follows:

a) The respondent submitted that the procedure to be followed in disciplinary cases is as provided under CCS (CCA) Rules, 1965 of the Central Government.

b) The Government of India vide GSR 225, dated 01.07.2004 has amended Rule 14 of the CCS(CCA) Rules, 1965 providing for treatment of the report furnished by the complaints committee as enquiry report and further action to be initiated thereof. Therefore, the respondent is now empowered to conduct departmental proceedings from the stage of submission of enquiry report by treating the report of the internal complaints committee as report in the departmental enquiry.

c) The petitioner has exhibited conduct unbecoming of a teacher by having sexual relationship with girl student knowing fully well that the petitioner was married. The petitioner abused his position as a teacher causing loss of reputation of the respondent university. Therefore, in the interest of justice, it is just essential that the departmental proceedings against the petitioner can be taken to its logical decision to send a clear message in the University.

d) Therefore, prayed that the writ petition is liable to be dismissed.

PERUSED THE RECORD :

5. A bare perusal of order impugned dated 30.04.2019 vide No.EFLU/Admn./F1990/2019/104, of the respondent herein reads as under:

MEMORANDUM

The undersigned proposes to hold an inquiry against Dr. T. Ranjith Assistant Professor (under suspension) Department of Communication, School of Inter-Disciplinary Studies, under Conduct Rules of the Employees of the University, including teachers, read with CCS (Conduct) Rules. The substance of the imputations of in respect of misconduct or misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statement of article of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of the article of charge is enclosed (Annexure-II). A list of documents by which the article of charge is proposed to be sustained is also enclosed (Annexure-III). Dr. T. Ranjith was kept under suspension, in public interest with effect from 25.01.2019 vide University orders No. EFLU/Admn./F.1990/2019/1395, dated 25.01.2019.

Dr. T. Ranjith in directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person,

Dr. T. Ranjith is informed that an inquiry will be held only in respect of the article of charge as is not admitted. He should, therefore, specifically admit or deny the article of charge.

Dr. T. Ranjith, Assistant Professor (under suspension), is further informed that he does not submit his written statement of defence on or before the date specified in Para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 1.3 of Conduct Rules of the Employees of the University, including teachers, read with CCS (Conduct) Rules, or the orders/directions issued in pursuance of the

said rule, the inquiring authority may hold the inquiry against him ex-parte.

Attention of Dr. T. Ranjith, Assistant Professor (under suspension), is invited Rule 1.2.12 of the Conduct Rules of the University under which no University employee shall bring or attempt to bring any political or outside influence to bear upon a superior authority to further his interest in respect of matters pertaining to his service under the University. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed Dr. T. Ranjith, Assistant Professor (under suspension), is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule 1.2.12 of the Conduct Rules of the employees of University, including teachers, read with CCS (Conduct) Rules.

The receipt of the Memorandum be acknowledged.

6. The main contentions putforth by the learned counsel for the petitioner are as follows :

- a) The impugned order was issued to the Petitioner upon the SPARSH Committee Report without furnishing a copy of the said committee report to the Petitioner which is in clear violation of principles of natural justice.
- b) Since the article of charge framed against the Petitioner is substantially similar to the criminal complaint lodged against the Petitioner with the Police and since the Petitioner was enlarged on bail vide orders of the High Court dt. 26.02.2019 in CrI.P.No.954/2019, which was filed by the

Petitioner herein for grant of anticipatory bail in the event of Petitioner's arrest in Crime No.25/2019 of Osmania University Police Station, Hyderabad City registered for the offences punishable under sections 417, 420, 376(1), 323 and 506 IPC with certain clear observations in favour of the Petitioner that the de-facto complainant did not mention of sexual assault against the Petitioner and only mentioned of physical assault.

c) The Petitioner never shared a teacher-student relation with the complainant and infact it was a consensual relation with the knowledge of family members on both sides, therefore framing of an article of charge of moral turpitude against the Petitioner basing upon the SPARSH committee report is misplaced.

d) It is specifically stated even in the complainants that she was unaware that the petitioner was a Professor and their relation grew thick and she always said yes to support the Petitioner. Even in the statement of imputation of misconduct against the Petitioner issued by the Respondent herein it is specifically stated that even as per the contents of the FIR and also the contents of the complaint of the Petitioner given

to the Registrar it is stated that they used to have the relationship of wife and husband and used to live together in the Petitioner's house. So there cannot be any allegation against the Petitioner alleging more turpitude of a teacher towards a female student and the same is unwarranted.

e) That even as per the report of the SPARSH committee it is an accepted fact that the Petitioner and the complainant Priya were in a live-in relationship and the said fact was reiterated by the house owners testimony. Therefore the very initiation of disciplinary proceedings against the petitioner is uncalled for and the Writ Petition has to be allowed as prayed for.

7. Main contentions put-forth by the Learned Standing Counsel for the Respondents :

a) The girl student Priya made a written complaint against the petitioner alleging sexual harassment to the Respondent herein i.e., Registrar of EFLU on 24.01.2019.

b) That the complaint made by the girl student was referred to the Internal Complaints Committee (ICC) of EFLU constituted under the Sexual Harassment of Women at

Workplace (Prevention, Prohibition & Redressal) Act, 2013 and the said committee after conduct of enquiry submitted report on 25.03.2019 holding that the behaviour of the Petitioner is very unbecoming of an University teacher and that the Petitioner was exercising his power as a faculty member over a student.

c) The Petitioner was placed under suspension by order dt. 25.01.2019 and a charge memorandum was issued to the Petitioner on 30.04.2019 and the Petitioner filed the present Writ Petition challenging the charge memo dt. 30.04.2019 and the Court vide order dt. 19.06.2019 in I.A.No.2/2019 in W.P.No.12075/2019 granted stay of all further proceedings in Departmental Enquiry.

d) The Departmental proceedings and the criminal trial can be proceeded simultaneously and the Departmental proceedings cannot be stayed pending criminal trial in cases arising out of sexual harassment.

e) The procedure to be followed in disciplinary cases is as provided under CCS (CCA) Rules, 1965 of the Central Government.

f) In the interest of justice the order dated 19.06.2019 in I.A.No.2/2019 in W.P.No.12075/2019 has to be vacated and the Writ Petition is liable to be dismissed.

DISCUSSION & CONCLUSION :

8. The Government of India vide G.S.R.No.225, dated 01.07.2004 has amended Rule 14 of the CCS (CCA) Rules, 1965 providing for treatment of the report furnished by the Complaints Committee as enquiry report and further action to be initiated to be initiated thereof, the said amendment is as extracted below. In the Central Civil Services (Classification, Control and Appeal) Rules, 1965, in Rule 14 in sub-rule (2), before the explanation, the following proviso shall be inserted, namely :-

"Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the Complaints Committee established in each Ministry or Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules".

9. Para 6 of the Counter Affidavit filed on behalf of the Respondent reads as under :

"That the Government of India vide G.S.R. No.225, dt. 01.07.2004 has amended Rule 14 of the CCS (CCA) Rules, 1965 providing for treatment of the report furnished by the complaints committee as enquiry report and further action to be initiated thereof. Therefore the Respondent is now empowered to conduct Departmental proceedings from the stage of submission of the enquiry report by treating the report of the internal complaints committee as report in the Departmental enquiry".

10. The Apex Court in the judgment reported in **(2019) 6 SCC 155 in Secretary, Lucy Sequeira Trust and Another v. Kailash Ramesh Tandel and Others** observed at Para 17 & 18 as follows :

Para 17 : *It is well settled that a departmental proceeding and proceedings in a criminal court are completely different. The purpose is different, the standard of proof is different and the approach is also different. The initiation of the process in a departmental proceeding, specially on charges with which we are concerned in the present matter can never be said to be amounting to contempt of court even if the criminal proceedings were pending. The allegations made against Respondent 1 were of such level and dimension that an immediate action on the departmental front was required to be undertaken and such action by its very nature had to be completely independent. Whether any criminal trial was pending or not would not be having any bearing on the pending issue before the Inquiry Committee. We have, therefore, no hesitation in observing that the approach of the nominee of Respondent Land of the State Awardee Teacher was completely wrong and unsustainable.*

Para 18 : *The approach to be adopted in matters where allegations of sexual harassment are made, is summed up in para 28 of the decision of this Court in Apparel Export*

Promotion Council v. A.K. Chopra. The said paragraph is as under: (SCC p. 777).

"28. The observations made by the High Court to the effect that since the respondent did not "actually molest" Miss X but only "tried to molest" her and, therefore, his removal from service was not warranted, rebel against realism and lose their sanctity and credibility. In the instant case, the behaviour of the respondent did not cease to be outrageous for want of an actual assault or touch by the superior officer. In a case involving charge of sexual harassment or attempt to sexually molest, the courts are required to examine the broader probabilities of a case and not get swayed by insignificant discrepancies or narrow technicalities or the dictionary meaning of the expression "molestation". They must examine the entire material to determine the genuineness of the complaint. The statement of the victim must be appreciated in the background of the entire case. Where the evidence of the victim inspires confidence, as is the position in the instant case, the courts are obliged to rely on it. Such cases are required to be dealt with great sensitivity. Sympathy in such cases in favour of the superior officer is wholly misplaced and mercy has no relevance. The High Court overlooked the ground realities and ignored the fact that the conduct of the respondent against his junior female employee, Miss X, was wholly against moral sanctions, decency and was offensive to her modesty. Reduction of punishment in a case like this is bound to have a demoralising effect on the women employees and is a retrograde step. There was no justification for the High Court to interfere with the punishment imposed by the departmental authorities. The act of the respondent was unbecoming of good conduct and behaviour expected from a superior officer and undoubtedly amounted to sexual harassment of Miss X and the punishment imposed by the appellant was thus commensurate with the gravity of his objectionable behaviour and did not warrant any interference by the High Court in exercise of its power of judicial review."

11. While considering the question as to whether disciplinary proceedings can be abruptly terminated at the stage when the delinquent employee was only charge sheeted the decision of the Hon'ble Apex Court in Union of India v. Ashok Kacker - (1995) Suppl. 1 SCC

187 – assumes relevance. That was a case where the respondent, on being charge sheeted, without replying to it and without waiting for the decision of the disciplinary authority thereon, rushed to the Central Administrative Tribunal seeking quashment of the charge-sheet. The Tribunal entertained it and ultimately quashed the charge sheet. While setting aside the order of the Tribunal and dismissing the Original Application filed before the Tribunal the Apex Court held that it was premature for an Administrative Tribunal to consider a challenge to the charge sheet where the employee rushed to the Court immediately on receiving it and he should have made a reply to the charge sheet raising all the points available to him and invite the decision of the disciplinary authority thereon.

12. The Apex Court in *State of Orissa & Anr. V. Sangram Keshari Misra & Anr.* (2010) 13 SCC 311 – held therein that normally, a charge sheet could not be quashed prior to the conclusion of the enquiry on the ground that facts stated in the charge are erroneous.

Correctness or truthfulness of the charge is a matter to be found out by the disciplinary authority.

13. A bare perusal of the contents of the statement of imputation of misconduct alleged against the Petitioner in support of the article of charge framed against the petitioner issued by the respondent herein it is specifically stated as follows :

"The University received a copy of the FIR from the Osmania University Police Station on 24.01.2019 filed against Dr. T. Ranjith, Assistant Professor, EFLU in criminal case under Cr.No.25/2019 U/s. 417, 376(1), 323, 506 IPC along with a copy of the complaint filed by Ms.Priya. She has stated in her complaint that Dr.T.Ranjith cheated her on false promise to marry her and physically assaulted her. They used to have the relationship of wife and husband and used to live together in his house. Dr. Ranjith threatened to throw her out of his house on 12.01.2019 and also assaulting her. A similar incident also took place on 16.01.2019.

Ms.Priya P submitted a complaint to the Registrar, wherein she stated that she had a relationship with Dr. T.Ranjith, Assistant Professor like wife and husband and that she lived together in his residence at Ravindranagar Colony, Sitaphalmandi. She had consented for the physical relation with him with the hope that he would marry her and finally she realised that she has been cheated by him".

14. A bare perusal of the contents of the reports of SPARSH Committee dated 20.03.2019 and 25.03.2019 clearly indicate that there is a clear finding that it was

established that both Petitioner and the complainant Priya lived together and further the Committee found and observed that the Petitioner and the complainant Priya in their testimony even accepted the fact that they were in a live-in relationship and further the house owners testimony reiterated this fact.

15. The Petitioner specifically averred at para 5 of the affidavit that Petitioner was not furnished a copy of any final report of the SPARSH Committee and the Petitioner only received the impugned Memorandum dated 30.04.2019 alleging moral turpitude on the part of the Petitioner by relying upon the alleged SPARSH Committee Report and this averment has not been denied by the Respondent in the counter affidavit.

16. Taking into consideration all the above referred facts and circumstances and the law laid down by the Apex Court referred to and discussed above, this Court opines that the impugned memorandum dated 30.04.2019, vide No.EFLU/Admn/F1990/2019/104 of the respondent warrants no interference. The

respondent is directed to proceed and conduct an independent Departmental enquiry giving reasonable fair opportunity to the petitioner herein in true compliance to the principles of natural justice duly permitting the petitioner to submit Petitioner's objections to the SPARSH Committee Enquiry Report and conclude the enquiry within a period of 2 months from the date of receipt of the copy of the order. Taking into consideration the averments made by the respondent herein in para 6 of the counter affidavit and also duly considering the law laid down by the Apex Court (2019) 6 SCC 155 in Secretary, Lucy Sequeira Trust and Another v. Kailash Ramesh Tandel and Others, Union of India v. Ashok Kacker - (1995) Suppl. 1 SCC 187, and State of Orissa & Anr. V. Sangram Keshari Misra & Anr. (2010) 13 SCC 311 referred to and discussed above, this Court does not find any compelling reason to bring about an abrupt termination of disciplinary proceedings initiated against the petitioner herein by setting aside the impugned Memorandum dated 30.04.2019 issued by the

**respondent herein and its incidental proceedings vacate
stay petition is closed.**

**17. The Writ Petition is accordingly disposed of.
There shall be no order as to costs.**

Miscellaneous applications, if any, pending shall stand
dismissed.

SUREPALLI NANDA, J

Date: 01.11.2022

Note: L.R. copy to be marked
b/o
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