
(2014) 10 AP CK 0093
In the Andhra Pradesh High Court
Case No : Writ Petition No. 31119 of 2014

B. Iddaiah

APPELLANT

Vs

APSRTC

RESPONDENT

Date of Decision : 17-10-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 149, 307, 323

Citation : (2015) 2 ALD 154 : (2015) LabIC 1846

Hon'ble Judges : R. Kantha Rao, J

Bench : Single Bench

Advocate : V. Narasimha Goud, Advocate for the Appellant; N. Vasudeva Reddy, SC, Advocate for the Respondent

Judgement

R. Kantha Rao, J.—Heard the learned counsel appearing for the petitioner and Sri N. Vasudeva Reddy, learned Standing counsel for the respondents-APSRTC.

2. The petitioner is working as driver in the respondent-Corporation. It seems that in the Ganesh immersion function that took place in the village of the petitioner on 08.09.2014, there was a quarrel among the villagers. It is alleged against the petitioner by one Mallesam that the petitioner assaulted him and attempted on his life and he gave a report in the Chinthapally PS on 08.09.2014 and a case against the petitioner was registered in Cr. No. 137 of 2014 for the offences under Sections 147, 148, 323, 324, 326, 307 and 504 read with 149 IPC. The petitioner was arrested on 12.09.2014 and was released on bail on 15.09.2014. According to the petitioner, after his release on bail, he approached the authorities concerned at 19.45 hours on 15.09.2014 itself and informed them about his arrest and involvement in the criminal case. Thereafter, the 2nd respondent kept the petitioner under suspension and framed the following charges against him.

"1. For having been arrested on 12.09.2014 and sent for judicial remand for the period from 12.09.2014 to 14.09.2014 due to involvement in criminal case vide No. 137/2014 registered in Chinthapally Police Station on 08.09.2014 under

"ATTEMPT TO MURDER CASE" which constitutes serious misconduct under Reg. 26 of APSRTC, Employees (Conduct) Regulations, 1963".

2. For having hidden the information of criminal case and incident occurred in your village on 08.09.2014 at about 17.00 hours at the time of Ganesh Idol immersion and registration of a case No. 137/2014 dated 08.09.2014 at Chinthapally Police Station and in respect of remand to judicial custody from 12.09.2014 to 14.09.2014, which constitutes serious misconduct under Regulations 28 (xv) of APSRTC Employees (Conduct) Regulations, 1963."

3. Regulation No. 26 of the APSRTC shows that if an employee fails to inform his immediate superior about his arrest in a criminal case, he is liable for suspension. Regulation No. 28 (xv) shows that any act involving moral turpitude which is punishable under the provisions of the Indian Penal Code, would amount to misconduct.

4. Sri V. Narsimha Goud, learned counsel appearing for the petitioner submits that none of the Regulations have been attracted and therefore, framing of charges against the petitioner is bad. On the other hand, Sri N. Vasudeva Reddy, learned standing counsel for the respondent-Corporation would submit that since there was involvement of the petitioner in a criminal case, punishable under Section 307 IPC, he was rightly kept under suspension.

5. Before appreciating the respective contentions advanced by both sides, the Circular dated 14.02.1983 issued by the APSRTC has to be looked into.

6. The course of action to be adopted in a case where the employee is charged with a criminal offence, which is not connected with the duties of his employment, the Circular reads as follows:

"An employee may have been charged with a criminal offence of assault, rioting etc. in a public place or in his village etc. outside his duty hours, this is certainly an incident which has no nexus to his duties as such. In such circumstances, it is needless to state that the employee need not be placed under suspension, as the placement of an employee under suspension is considered appropriate only when his continuance in service might be detrimental to the interests of the Corporation."

The Circular further reads as follows:

"Even if such an employee is suspended, because of his arrest by police, the same can be lifted when the employee is released on bail. As regards parallel departmental action a disciplinary action may be taken after the criminal case is decided by the Court and basing on the nature and quantum of punishment imposed."

7. Here is a case where the petitioner seems to have been involved in a quarrel which occurred in the village during Ganesh Idol immersion and at the behest of his opponents, he was involved in the criminal case.

8. The scope of interference by the court with the order of suspension pending enquiry is available in exceptional circumstances and on very limited grounds. Normally it is left to the discretion of the disciplinary authority whether to keep an employee under suspension pending enquiry may be in public interest or to complete the enquiry without any interference or having regard to the gravity of the misconduct. Ordinarily this court would not exercise the power of judicial review to interfere with order of suspension pending enquiry.

9. But when there is no reasonable basis for keeping an employee under suspension, or when the order is mala-fide or vindictive or contrary to the rules this court can certainly revoke or set aside the suspension order.

10. In the instant case even if the entire facts based on which the FIR was registered are considered to be true, the offence alleged is not grave and it does not involve any moral turpitude. It has no nexus with the official functions of the petitioner. More so, it does not attract any of the misconducts enumerated in the regulations of the Corporation and apparently the suspension order is contrary to the Circular issued by the Corporation which is extracted herein above.

11. Having regard to the peculiar nature of the facts of the case, the Corporation ought not to have placed the petitioner under suspension. Even for any reason the Corporation suspended him, the suspension order ought to have been lifted after release of the petitioner on bail. In the circumstances, I thoroughly consider that the suspension order being unsustainable is liable to be set aside.

12. The writ petition is accordingly disposed of setting aside the suspension order. However, the Corporation is at liberty to initiate disciplinary proceedings against the petitioner, after the judgment is rendered by the criminal Court convicting the petitioner and if such conviction warrants initiation of disciplinary proceedings. No order as to costs. Miscellaneous petitions pending if any in this writ petition shall stand closed.