

(1996) 07 AP CK 0052
In the Andhra Pradesh High Court
Case No : Writ Petition No. 14164 of 1996

B. Raju

APPELLANT

Vs

The Depot Manager, APSRTC

RESPONDENT

Date of Decision : 19-07-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 3 ALD 605 : (1996) 3 ALT 578 : (1997) 1 LLJ 624

Hon'ble Judges : S.R. Nayak, J

Bench : Single Bench

Judgement

1. At the stage of admission Smt. A. Viyyayanthi, learned Standing Counsel for APSRTC took notice on behalf of the respondent-authority.

2. Heard the learned Counsel for the parties on merits.

3. The petitioner is a driver in the respondent Corporation. A charge-sheet was issued to him on July 2, 1996 alleging that he was negligent in driving the bus bearing Registration NO. AAZ 6259 on Route No.230-D and on account of his negligence he hit a six year old girl resulting in her death. On the same day suspension order was also issued. In this writ petition the petitioner has called in question the validity of the charge-sheet as well as the suspension order.

4. The learned counsel would submit it that the allegations contained in the charge-sheet are untrue and he was not guilty of negligent driving. This submission of the learned counsel for the petitioner cannot be considered at this stage. It is settled position in law that the court while reviewing the charge-sheet cannot go in to the merits of the allegations contained in the charge-sheet and it is for the criminal Court or for the disciplinary authority to record findings on these allegations after recording the evidence.

5. Secondly, the learned counsel submitted that the police have already registered a crime against the petitioner and the prosecution is pending and if the disciplinary authority proceeds with the departmental enquiry against the

petitioner that will cause prejudice to his effective defence in the departmental proceedings. It is settled position of law that both the prosecution and the departmental proceedings cannot be permitted to proceed simultaneously.

6. Assailing the validity of the suspension order, the learned counsel for the petitioner submitted that there is a binding settlement between the management of the Corporation and the trade union to which the petitioner belongs. According to the settlement, whenever the Corporation receives complaint relating to the alleged negligent driving resulting in the major accident, it requires that the Depot Manager of the nearest depot and the Depot Manager of the Parent Depot shall visit the accident spot and conduct a preliminary enquiry and submit a report. After such joint inspection the prescribed authority has to consider whether the driver should be kept under suspension pending enquiry or not after taking into account the past history of the driver. In this connection the learned counsel drew the attention of die Court to Clauses B and D of the settlement. It is true that a perusal of Clauses B and D support the contention of the petitioner. But on that ground alone this Court cannot interfere with the suspension order, because if the petitioner is permitted to drive the vehicle before his innocence is proved, that will jeopardize the public interest. The petitioner is alleged to have caused accident on account of his negligent driving. Unless the concerted Officers visit the spot and satisfy themselves that the petitioner was not guilty of negligent driving, it is unsafe to permit the petitioner to drive the vehicle at the risk of the commuters and pedestrians who use the public roads.

7. In the result and for die foregoing reasons, the writ petition is allowed in part. The respondents are directed to defer the enquiry in pursuance of the charge-sheet dated July 2, 1996 till the criminal law Court disposes of the case pending on its file. However, it is made clear that after the disposal of the criminal case, it is permissible for the respondent to disciplinary authority to hold departmental enquiry against the petitioner in pursuance of the charge-sheet in accordance with the Regulations governing departmental enquiry. The respondents are further directed to cause inspection and visit the-accident spot, if not already done, as provided under Clause-B of the settlement and after such visit and necessary .investigation, if the respondents are satisfied that the petitioner was not guilty of negligence in driving the vehicle and causing the death of the girl, it is open for the respondent authority to review the suspension order. In the facts and circumstances of the case, the parties shall bear their own costs.