
(1997) 02 AP CK 0002

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 179 of 1997

Depot Manager, A.P.S.R.T.C. and Another

APPELLANT

Vs

P. Jagadeswara Rao

RESPONDENT

Date of Decision : 27-02-1997

Acts Referred:

Citation : (1997) 4 ALD 779 : (1997) 2 ALT 680

Hon'ble Judges : P.S. Mishra, C.J.;V. Bhaskara Rao, J

Bench : Division Bench

Advocate : C.V. Ramulu, for the Appellant; P.V.S.S.S. Rama Rao, for the Respondent

Final Decision : Allowed

Judgement

P.S. Mishra, C.J.—Heard.

2. This Court in W.A.No. 1434 of 1996 has expressed: "It is well settled 45 that when a criminal charge is preferred and on same or similar facts and materials, a departmental proceeding is ordered, the Court exercises the rule of prudence to decide whether there is any likelihood of prejudice to the cause of the delinquent employee and decide on facts of each case whether to the proceedings of the criminal case in the Court." The Court has further observed: "this rule has, however, been accepted with several reservations, such as the effect of the presence of the delinquent employee in service and the public interest find in case it is found that pending a criminal charge in the Court keeping the departmental proceeding in abeyance would be injurious to the interest of the public and/or administration, departmental proceedings are not stayed." Learned single Judge has, however, taken notice of the similarity of the charge in the criminal Court and the disciplinary proceeding and in a summary order has stated as follows:

"The charges before the Criminal Court and in the disciplinary proceedings are substantially similar in nature. Therefore, I am inclined to dispose of the writ

petition with a direction that the respondents shall withhold the disciplinary proceedings in pursuance of charge-sheet dated 17th September, 1996 till the final verdict of the Criminal Court is pronounced in the matter, The Writ Petition is, accordingly, disposed of."

As held in the above case, the principles above noted are not reflected to have been considered by the learned single Judge. Adverting to similar facts of a driver of a stage carriage, the Court in the said appeal has observed :

"When, however, we have adverted to this aspect of the matter, we are of the opinion that action by way of departmental proceeding would advance the cause of justice and public interest in case nothing is found to deny to the respondent - petitioner the position of a driver to drive a stage carriage belonging to the appellants herein, he should be put to work and not be kept out of work for any period longer than necessary. In case, however, he is not a person found desirable to continue as a driver, it would be in the public interest to decide the departmental proceeding quickly, In view of the above, we are not inclined to set aside the impugned order and direct instead that in case it is felt desirable that departmental proceeding should be held pending criminal charge in the Court, the same should be held expeditiously so that in case the respondent - petitioner is not found undesirable, he should be reinstated and put on duty. In case, he is not found desirable, he is just not put on duty, but suitable disciplinary action is taken against him. In view of the above, we are inclined to interfere with the impugned judgment. The same is set aside."

The above, in all force, applies to the facts of the instant case. Accordingly, the impugned judgment is set aside. The appellant, however, is directed to expedite the departmental proceeding and take a firm and legal decision in the matter whether to retain the petitioner-respondent in service and accordingly issue orders,

3. The appeal is accordingly allowed.