

(1998) 10 AP CK 0015

In the Andhra Pradesh High Court

Case No : Writ Petition No. 30219 of 1997

J. Venkat Reddy

APPELLANT

Vs

Depot Manager, APSRTC, Narkatpally

RESPONDENT

Date of Decision : 28-10-1998

Acts Referred:

Citation : (1998) 6 ALD 689 : (1998) 6 ALT 373

Hon'ble Judges : V. Bhaskara Rao, J

Bench : Single Bench

Advocate : Mr. A. Thirupathi Reddy, for the Appellant; Mr. A.V. Sivaiah, SC for APSRTC, for the Respondent

Judgement

1. The petitioner is seeking a writ of Certiorari quashing the suspension order passed in proceedings No.HC/197(I)/ 97-NKP, dated 16-10-1997 passed by the respondent and to direct reinstatement of the petitioner.

2. The facts in brief are that the petitioner has been working as Senior Traffic Inspector at Narkatpally Bus Depot of APSRTC since 6-8-1996. While so he was suspended on 16-10-1997. According to the petitioner he was sick at the material time and he had been to Medical Officer, RTC Dispensary at Nalgonda for a check up and he has been referred to RTC Hospital at Tarnaka for a further check up vide letter No.J/468/ 399/97-MO, Nalgonda, dated 5-7-1997. The suspension order is assailed on the ground that it is in violation of principles of natural justice; that no preliminary enquiry was conducted; that the respondent is not competent to pass the impugned order and that he has not exercised his discretion in a judicious manner.

3. The petition is opposed by the respondent by filing a counter. The material averments are denied. It is however, admitted that the petitioner was referred to Headquarters Hospital, Tarnaka due to ill-health and accordingly he reported there on 24-7-1997. It is the case of the respondent that the Medical Officer at Tarnaka advised the petitioner to attend for review on 8-8-1997, but he failed to

appear for review and that fact was communicated by the Senior Medical Officer by his letter dated 15-10-1997. Adverting to the grounds, it is stated that the respondent is authorized to exercise the disciplinary powers duly obtaining the prior sanction of the appointing authority i.e., Deputy Chief Traffic Manager vide item No. 16, Section 9 (Service Matters) of Delegation of Powers, 1994. It is specifically averred that the Deputy Chief Traffic Manager has advised the respondent to place the delinquent under suspension pending enquiry and hence there is no illegality in passing the impugned order.

4. Sri A. Tirupai Reddy, learned Counsel for the petitioner strenuously contended that the impugned order is violative of principles of natural justice as neither any notice is given to him before passing the order nor any preliminary enquiry is conducted. He further contended that the Depot Manager is not the appointing authority and hence he is not empowered to pass the impugned order. He also contended that the charges against the petitioner do not disclose a prima facie case of misconduct and more so there are no grave charges against him and hence suspension is not called for. On the other hand Sri A. V. Siviah, learned Standing Counsel for the respondent contended that the Depot Manager is authorized to exercise the disciplinary powers subject to prior permission of the Deputy Chief Traffic Manager and in this case Deputy Chief Traffic Manager had advised the respondent to suspend the petitioner and accordingly the suspension order is passed. It is his case that suspension is in the interest of the Corporation inasmuch as the petitioner had not discharged his duties of control over the subordinate staff and thereby he conducted himself against the interest of UK Corporation. Thus, he supported the impugned order of suspension.

5. I carefully considered the above contentions of both the learned Counsel. I had a cursory look at the charges levelled against the petitioner. The substance of the above charges is that he frequently went to Hyderabad without prior permission of the authorities and thereby he did not exercise effective control over the subordinate staff. Another limb of the charge is that he failed to report to the Headquarters Hospital at Tamaka on 8-8-1997 for review, but he failed to turn up on that day.

6. The gravamen of the charge-sheet is that he left the headquarters without permission of his superior authority and he did not turn up for a review on 8-8-1997 before the Headquarters Hospital. It is not a case of corruption or such other misconduct involving moral turpitude. This fact has to be necessarily borne-in-mind to see whether there is any justification in suspending the Officer pending disciplinary enquiry. In my considered view, the punishment that is going to be inflicted upon any Government servant should be proportionate to the gravity of the charge and in a case of this nature even if all the charges against the petitioner are established, they are not so grave as to entail the punishment of dismissal or removal from service. At best a warning or stoppage of one or two increments may be called for. Such being the situation, suspension would be a harsh treatment. Moreover, it is nowhere alleged that the petitioner

would interfere with the course of enquiry or he would tamper with the record or witnesses if he is not suspended. Viewing from all angles I am satisfied that the impugned order is unsustainable.

7. In so far as competency of the respondent in passing the impugned order is concerned, it is needless to say that he has instructions from the appointing authority and hence such an objection does not stand.

8. In the result, the Writ Petition is allowed quashing the impugned order. Consequently the respondent is directed to reinstate the petitioner with immediate effect with all consequential benefits. It is deemed necessary to direct the disciplinary authority to proceed with the enquiry as expeditiously as possible and complete the same within three months from the date of receipt of the copy of the order. There will be no order as to costs.