(1999) 09 AP CK 0102

In the Andhra Pradesh High Court

Case No : Writ Petition No. 1904 of 1999

K. Subba Rao	APPELLANT
Vs	
A.P.S.R.T.C. and Others	RESPONDENT

Date of Decision : 20-09-1999

Acts Referred:

Citation : (1999) 5 ALT 570

Hon'ble Judges : D.S.R. Varma, J

Bench : Single Bench

Advocate : S.M. Subhan, for the Appellant; C.V. Ramulu, for the Respondent

Final Decision : Allowed

Judgement

D.S.R. Varma, J.—At the interlocutory stage both the Counsel agreed to argue the main writ petition itself and since counter-affidavit has been filed, the writ petition is disposed of.

2. The case of the petitioner is that he was transferred from Machilipatnam to Vijayawada I Depot and was relieved on 19-11-1996. Duly closing his Muster and handing over the charge to the concerned authorities, he proceeded to his new station. According to the petitioner there is no shortage of any item at the time of handing over charge, and the concerned have not raised any objection. He jointed at Vijayawada on 26-11-1996. While so, a charge-sheet was issued in proceedings dated 17-5-1997 alleging that he failed to hand over 28 T & P items to his successor. The Petitioner offered his explanation to the charge-sheet.

3. In normal course when a charge-sheet is issued and explanation is offered, if the competent authority is not satisfied with the explanation, further course under the Corporation Regulations has to be followed by initiating disciplinary proceedings. Surprisingly, in the instant case no such disciplinary proceeding was initiated. Simply after receiving the explanation and having not been satisfied with the explanation, the third respondent issued a show-cause notice imposing a penalty of recovery of an amount of Rs. 18,785-21 Ps. from the salary of the

petitioner towards the cost of the items which were allegedly not handed over by the petitioner. In my view such recovery is in the nature of imposing penalty. Apparently, such a charge-sheet was filed after lapse of six months.

4. However, uninfluenced by the delay in causing the charge-sheet, I am of the opinion that when a charge-sheet is issued, departmental enquiry as per the Regulations has to necessarily follow.

5. Any lapse on the part of the respondents in not following the procedure contemplated under the Regulations would automatically vitiate the penalty imposed on the petitioner. It is imperceptible how a Corporation like the respondent could award such a penalty of recovery of a huge amount of Rs. 18,000/- without initiating disciplinary proceedings. In my view this is highly condemnable and is liable to be set aside, since the said action is contrary to the established principles of law relating to disciplinary proceedings.

6. Accordingly, the impugned proceedings dated 23-3-1998 and the consequential proceedings rejecting the appeal filed by the petitioner by the Regional Manager dated 20-5-1998 are set aside.

7. However, it is open to the respondents to initiate fresh proceedings pursuant to the charge-sheet dated 17-5-1997, if so desires, though belated.

8. Further, if any amount is recovered pursuant to the impugned proceedings, the respondents shall return the same to the petitioner within a period of one month.

9. The writ petition is accordingly allowed. No costs.