

**(1990) 11 KAR CK 0046**  
**In the Karnataka High Court**  
**Case No : W.P. No. 3180/1983**

M.H. Mudalagiriappa

APPELLANT

Vs

The Regional Manager, K.S.R.T.C. and Another

RESPONDENT

**Date of Decision :** 02-11-1990

**Acts Referred:**

Karnataka State Road Transport Corporation Servants (Conduct and Discipline) Regulations, 1971 — Regulation 22(1)

**Citation :** (1990) 4 KarLJ 527

**Hon'ble Judges :** H. G. Balakrishna, J

## **Judgement**

1. The petitioner who was working as a Traffic Controller in K.S.R.T.C. is the petitioner herein questioning the order passed by the Disciplinary Authority under Annexure-C and the order passed by the Appellate Authority under Annexure-E, wherein both the orders have resulted in the reduction of the pay of the petitioner with immediate effect by four stages with cumulative effect, as a measure of punishment, under Regulation 18 and sub-section (viii) of Part III of the K.S.R.T.C. Servants (C & D) Regulations, 1971. It is clarified by the learned Standing counsel appearing for the K.S.R.T.C. that the petitioner holds the substantive post of Conductor (Stand Duty) and also known by the abolition of Traffic Controller.

2. Articles of charge were served on the petitioner and an Inquiry was held against him in regard to the imputations made against him and the Articles of charge. The Inquiring Authority submitted its report along with its findings to the Disciplinary Authority and the Disciplinary Authority proceeded to impose minor punishment on the petitioner holding him guilty of the charges amounting to misconduct under Regulation 3 and sub-sections (i), (ii) and (iii) of Part II of the K.S.R.T.C. Servants (C & D) Regulations, 1971, imposing punishment as mentioned earlier.

3. The Articles of charge are reproduced below:

"KARNATAKA STATE ROAD TRANSPORT CORPORATION/HASSAN DIVISION/

HASSAN:

No. KST. HSN. DFL. 526/80/3518 Dated: 23-7-1980

ARTICLES OF CHARGE

Read: Offence Memo No. 25445, dated 3-4-1980.

1. I, the undersigned, the Deputy General Manager & Division Controller, KSRTC, Hassan Division, Hassan (Disciplinary Authority) being of the opinion that there are grounds for inquiring into the truth of imputation of Misconduct/Misbehaviour in exercise of powers under KSRTC Servants (C & D) Regulations, 1971 charge you Sri Mudalagiriappa, Traffic Controller, Shimoga Depot for the following Acts of Misconduct/Misbehaviour committed by you:

That on 3-4-1980 at about 1335 hours when the Vehicle No. 6456 plying on route Shimoga-Chickmagalur despatched by you for 12/2 passengers at Bhadravathi Stand, was counter-checked by the Central Line-checking Squad, Hassan it was found that there were 52/8 passengers in the bus. Thereby you have certified 40/6 less passengers, which clearly shows that you have colluded with the duty Conductor to pilfer the Corporation revenue to the tune of Rs. 69-60.

\*List of documents:

- 1) O.M. No. 25445, dated 3-4-1980.
- 2) Report No. KST. CLS. 52, dated 21-4-1980.

End.: Copy of the above report.

2. The statement of imputations, a list of documents\* and witness by which the aforesaid Articles of charge proposed to be established is/are enclosed.

3. You are hereby directed to state in writing whether you plead guilty of the charge/charges levelled against you as in para-1 above. If not, you should submit a written statement in your defence within TEN DAYS from the date of receipt of this Articles of charge.

4. In case you require copies of any document mentioned in para-2 above, you may take out the copies of the said document in my presence within three days of the receipt of this Articles of charge, during working hours.

5. If you intend to take assistance of any other Corporation Servant to present the case on your behalf, his name, designation and place of working should be given in your written statement.

Sd/- xxx,

DY. G.M. & DIVL. CONTROLLER

(DISCIPLINARY AUTHORITY)."

4. The petitioner is aggrieved by not only the order passed by the Disciplinary Authority but also by the Appellate Authority and has questioned the same on several grounds.

5. It is a well settled principle of law that this Court does not sit as a Court of appeal in Judgment over the Order of the Disciplinary or Appellate Authority and delve into disputed questions of fact or resort to reassessment of the evidence. However, in exercise of its jurisdiction under Article 226 of the Constitution, the Court would not hesitate to use its discretionary power if there is a material irregularity or procedural illegality.

6. The point for consideration is: Whether the order of the Disciplinary Authority meets the requirements of Clauses (c) and (d) of Regulation 22(1) of the K.S.R.T.C. Servants (Conduct & Discipline) Regulations, 1971?

7. According to the said Regulation, under Regulation 22(1)(c):

"Subject to the provisions of sub-regulation (26) of Regulation 23 and Regulation 15, no order imposing on a Corporation servant any of the penalties specified in Clause (i) to (viii) of Regulation 18 shall be made except after taking the representation, if any, submitted by the Corporation servant under Clause (a) and the record of inquiry, if any, held under Clause (b) into consideration; and (d) recording a finding on each imputation of misconduct or misbehaviour." (emphasis supplied)

8. The Order of the Disciplinary Authority reads as follows:

"I have gone through the case papers and hold Sri M.H. Mudalagiriappa, Conductor (stand duty), Shimoga Depot, guilty of charges, amounting to misconduct, as per Regulation 3 and sub-sections (i), (ii) and (iii) of Part II of the KSRTC Servants (C & D) Regulations, 1971.

I, therefore, hereby order that the pay of Sri M.H. Mudalagiriappa, Conductor (stand duty), attached to Shimoga Depot be reduced with immediate effect by four stages with cumulative effect, as a measure of punishment, as per Regulation 18 and sub-section (viii) of Part III of the K.S.R.T.C. Servants (C & D) Regulations, 1971."

9. The order in question ex-facie discloses non-consideration of the reply given by the petitioner which is referred to only in serial No. 3 of the preamble to the order and non-recording of a finding touching imputations of misconduct or misbehaviour. In other words, fair administrative procedure is not complied with notwithstanding the statutory compulsions. Undisputedly, the Regulations have the force of law and it is not open to the Disciplinary Authority to make a departure from the compulsions of law. The Disciplinary Authority is acting in a quasi-judicial capacity. In the discharge of quasi-judicial functions entailing civil consequences, the Disciplinary Authority is expected to rigidly conform to the statutory requirements before proceeding to decide whether or not the Delinquent has committed breach of any Regulation and has thereby committed

an act of misconduct or misbehaviour.

10. The learned Standing counsel appearing for the Corporation drew my attention and rightly so to the explanation offered by the petitioner on the date when he was confronted with the allegation that he had committed a dereliction of duty in the capacity of Traffic Controller. The explanation offered on the spot by the petitioner is not even commented upon by the Disciplinary Authority and not even the Articles of charge and the statement of imputations have been specifically referred to by the Disciplinary Authority while passing the order under Annexure-C. A general statement which does not stand legal scrutiny to the effect that the Disciplinary Authority has gone through the case papers and therefore holds Sri M.H. Mudalagiriappa, Conductor guilty of charges amounting to misconduct would not satisfy the requirements of law. It is the statutory duty of the Disciplinary Authority to refer to each one of the imputations of misconduct or misbehaviour and give a finding while at the same time taking into account the reply or representation or objections filed by the Delinquent because the representation, if any, given by the Delinquent forms part of the record, and is relevant. In fact, under sub-section (2) of Regulation 22, the record of the proceedings in such cases shall include the representation, if any, made by the Delinquent, the evidence produced during the inquiry, a copy of the intimation to the Corporation servant of the proposal to take action against him, the findings on each imputation of misconduct or misbehaviour and finally the orders on the case together with reasons therefor.

11. Apart from the fact that there is no reference or finding in regard to each imputations of misconduct or misbehaviour and conspicuous absence of reference to the reply submitted by the petitioner, not even a single reason is assigned to support the order of the Disciplinary Authority. The Court cannot probe into the mind of the Disciplinary Authority but certainly it can look into the reasons and the rationality of the order passed by the Disciplinary Authority. In the absence of the reasons, the presumption is inevitable and the presumption is that either there are no reasons in existence to give in support of the order of the Disciplinary Authority or that the Disciplinary Authority is unable to assign the reasons to support its own order due to non-application of mind.

12. Considering the nature of explanation and the facts and circumstances of the case, I am constrained to observe that orders of this nature frustrate the intendment of legislation particularly Regulations which exclusively deal with disciplinary action against the errant officials or employees of the Corporation.

13. It certainly cannot be said that the Disciplinary Authority is not acquainted with law and disciplinary regulations. Even otherwise, as is often said: "ignorance of law is no excuse." The Disciplinary Authorities while dealing with the career of the employees have to bear in mind that any action to be taken should be consistent with the rule of fairness and reasonableness and fair administrative procedure is the watch-ward which should guide their conduct.

14. The order of the Appellate Authority which is based on the order of the Disciplinary Authority which cannot be sustained on account of its inherent deficiencies and inadequacies, in turn also deserves to be quashed. In fact, nothing prevented the Appellate Authority from pointing out the inherent weakness in the order of the Disciplinary Authority. But, unfortunately, the Appellate Authority has also toed the same line and has not displayed fair and objective consideration while disposing of the appeal. In any case, the Appellate Authority cannot supply reasons to the order of the Disciplinary Authority which does not contain reasons. I may also observe that the Appellate Authority can neither supplement nor supplant reasons to the order of the Disciplinary Authority to justify the order.

15. For the reasons stated above, I allow this writ petition and quash the impugned orders under Annexure-C as well as under Annexure-E.

16. However, in the circumstances of the case, there shall be no order as to costs.