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**(2010) 08 KAR CK 0003**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 83129 of 2009**

Pampathy Reddy

APPELLANT

Vs

N.E.K.R.T.C.

RESPONDENT

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**Date of Decision :** 13-08-2010

**Acts Referred:**

Karnataka State Road Transport Corporation Servants (Conduct and Discipline), Regulations, 1971 — Regulation 21

**Citation :** (2011) 3 KCCR 243 SN

**Hon'ble Judges :** Anand Byrareddy, J

**Bench :** Single Bench

**Advocate :** P. Vilaskumar, for the Appellant; Amresh S. Roja, for the Respondent

**Final Decision :** Allowed

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## Judgement

Anand Byrareddy, J.—Heard the learned Counsel for the Petitioner and the learned Counsel for the Respondents.

2. The Petitioner was appointed as a driver under the Respondent in the year 1998. There were no allegations of misconduct, non-feasance or mis-feasance against the Petitioner. It transpires that the Petitioner's wife however, had made allegations against the Petitioner of criminal offences and had lodged a complaint with the jurisdictional police, as a result of which, he was taken into custody and kept behind bars for over 20 days. This is not a disputed fact. By virtue of the Petitioner having been kept in custody, though not by virtue of any order of conviction, but merely on a complaint by his wife and the Respondents in turn having learnt of the arrest of the Petitioner, had placed him under suspension invoking Regulation 21 of the Karnataka State Road Transport Corporation Servants (Conduct and Discipline) Regulations, 1971 and a charge-sheet was issued to the Petitioner to show cause as to why he should not be punished for having been arrested and kept behind bars for more than 48 hours. The Petitioner had therefore, filed a civil suit and sought for a temporary injunction to restrain the Respondents from taking any further action, pursuant to the show

cause notice and the charge-sheet. The trial Court had granted an order of injunction, which was challenged by way of an appeal by the Respondents. In the appeal, the appellate Court, while referring to several regulations found, that an order of suspension issued by the Respondents was an appealable order and since the Petitioner was afforded with an alternative remedy, the trial Court having granted the order of injunction, allowed the appeal. This is sought to be challenged in the present writ petition.

3. The learned Counsel for the Petitioner would state though the Petitioner was convicted of the alleged offence complained of by his wife, the matter was ultimately compounded and the Petitioner has been acquitted. Further, the Respondents have also revoked the order of suspension. The learned Counsel would therefore, submit that there is no proceeding by virtue of which the Respondents could continue with any disciplinary proceedings. Therefore, he would submit that the only question that would remain is whether the Petitioner having been put behind bars for over 48 hours would, per se, constitute misconduct which invited the disciplinary proceedings contemplated by Respondents under the charge sheet.

4. From a reading of the regulations and from the above facts and circumstance, it cannot be said that an employee of the Respondents being behind bars for over 48 hours would, per se, constitute an act of misconduct. Regulation 21 which provides for suspension of an employee, who has remained behind bars for more than 48 hours is possibly incorporated by way of prudence to ensure that a person with criminal antecedents is not continued in employment and is immediately placed under suspension with a provision for revoking the same or modifying the same, dependant upon the circumstances of the case. This is evident from Clause (c) of Regulation 21. But the Respondents proceeding on the footing that the unfortunate circumstance of an employee being put behind bars, for whatever reason, would constitute an act of misconduct, is not tenable and cannot be taken to its logical end. As in the instant case, when there is no criminal proceeding against the Petitioner and when it did not involve any act on the part of the Petitioner in relation to his duties having a bearing on the employer-employee relationship, the Respondents seeking to initiate disciplinary proceedings merely because he was behind bars at the instance of his wife, would be totally out of place and would result in gross injustice.

5. Therefore, the entire proceedings would have to be set at naught. Accordingly, the Respondents shall drop all further proceedings contemplated pursuant to the charge sheet issued to the Petitioner at Annexure "B".

Accordingly the writ petition is allowed. The Respondents shall close the disciplinary proceedings contemplated in terms of Annexure "B" forthwith.