

(1998) 10 AP CK 0032
In the Andhra Pradesh High Court
Case No : Writ Petition No. 24754 of 1998

R.S. Manyam

APPELLANT

Vs

Vice-Chairman and Managing Director, APSRTC, Hyderabad
and Another

RESPONDENT

Date of Decision : 08-10-1998

Acts Referred:

Andhra Pradesh State Road Transport Corporation Employees (Classification, Control and Appeal) Regulations, 1967 — Regulation 12(3), 12(A, 28

Citation : (1998) 6 ALD 438 : (2001) 2 ALT 25

Hon'ble Judges : S.R. Nayak, J

Bench : Single Bench

Advocate : Mr. S. Sriram, for the Appellant; Mr. A.V. Sivaiah, SC for APSRTC, for the Respondent

Judgement

1. The writ petition was heard filially with consent of learned Counsel for the parties.
2. The petitioner has served as driver in the establishment of second respondent. He was issued with charge-sheet dated 16-7-1998 alleging misconduct against him within the meaning of Regulation 28(xxxi) of APSRTC Employees (Conduct) Regulations, 1963 (for short "the Conduct Regulations"). On the same day the petitioner was placed under suspension by a separate order pending enquiry. The petitioner has assailed the validity of the charge-sheet as well as the office order placing the petitioner under suspension pending enquiry.
3. In response to Rule Nisi and as directed by this Court, Sri A. V. Sivaiah, learned Standing Counsel for APSRTC made available to the Court the records of the impugned proceedings.
4. Heard the learned Counsel for the petitioner and the learned Standing Counsel for APSRTC.
5. Sri S. Sriram, learned Counsel for the petitioner placed two contentions before

the Court for consideration. The first contention is that the charges framed against the petitioner are vague and the petitioner could not effectively meet those charges for their vagueness and also in the absence of the copy of the complaint submitted by the BSM/CTR dated 17-5-1998 and copy of the Preliminary Enquiry Report of CI/PLNR. Secondly, the learned Counsel for the petitioner would maintain that mandatory duty envisaged under sub-regulation (3) of Regulation -12 of the APSRTC CCA Regulations (for short "CCA Regulations) is violated. On the other hand, Sri Sivaiah, learned Standing Counsel for APSRTC would maintain that no case is made out for quashing the charge-sheet; charges are explicitly clear, and there is no jurisdiction to interfere with the suspension order passed by the disciplinary authority pending enquiry. The disciplinary authority has framed two charges which read thus:

Charge I "For having parked the vehicle near the traffic island in the wrong direction for more than half-an-hour on 16-5-1998 giving scope for accidents, which amounts misconduct under Regulation 28(xxxi) of APSRTC Employees (Conduct) Regulations, 1963"

2. "For having instigated the other staff and made traffic jam duly keeping the service vehicle near to the washing plant feeing east-west, obstructing the outgoing and in-coming vehicles for an hour and fifty minutes, resulting such inconvenience to the travelling public and created an obscenic scene at the bus-station premises and thereby misconduct under Regulation 28 (xxxi) of APSRTC Employees (Conduct) Regulation, 1963."

6. As could be seen from these charges, both the charges are framed under Regulation 28(xxxi) of the Conduct Regulations. I do not find any vagueness in charge No.1. The petitioner/delinquent is clearly told that on 16-5-1998 he parked the vehicle near the traffic island in the wrong direction for more than half-an-hour and due to the act of the petitioner, there was scope for accidents. Similarly, I do not find any objectionable vagueness in charge No.2. Here also, the petitioner was clearly told that he instigated the other staff and made traffic jam by keeping the service vehicle near to the washing plant feeing east-west thereby obstructing the out-going and in-coming vehicles for an hour and fifty minutes, resulting much inconvenience to the travelling public. Therefore, it cannot be said that the charges, as such, suffer from vice of vagueness. However, Sri Sriram, learned Counsel for the petitioner would not stop mere, and he would draw the attention of the Court to sub-Regulation (3) of Regulation-12 of CCA Regulations to highlight the point that disciplinary authority ought to have supplied copies of the complaint and the enquiry report, on the basis of which the charges are framed. No doubt sub-regulation (3) of Regulation 12 of CCA Regulations provides that the grounds on which the disciplinary authority proposes to take action against the delinquent should frame charge or charges and communicate such charge or charges to the delinquent with "statement of allegations or a copy of the report" on which each charge is based. If the disciplinary authority were to attribute a misconduct against the petitioner

referring to Regulation 28(xxxi) of the Conduct Regulations without setting out the pertinent facts and particulars, he ought to have issued a separate statement of allegations along with the charge-sheet. It is not the requirement of law that in every case the disciplinary authority should issue a separate statement of allegations with the charge-sheet. The charge-sheet itself may contain the allegations attributed to the delinquent. In other words, the charge-sheet may be a composite document attributing the misconduct under a particular regulation and also setting out the facts and circumstances and the allegations to bring home the misconduct attributed to the delinquent. When the Court looks at the impugned charge-sheet, it cannot be said that necessary particulars and allegations are not set out in support of the misconduct, under Regulation 28(xxxi) of the Conduct Regulations. Sub-regulation (3) of Regulation 12 of the CCA Regulations refers to supply of a copy of the report on which each charge is based. The argument of the learned Counsel for the petitioner is that the charges are based on the Preliminary Enquiry Report of CI/PLNR. This requirement of furnishing a copy of the report would arise only in a case where the disciplinary authority without setting out the allegations to the delinquent in the charge-sheet, merely attributes a mis-conduct under a particular Conduct Regulation. That is not the situation obtaining in the present case. The necessary allegations, that, if proved, would constitute a mis-conduct under Regulation 28(xxxi) of the Conduct Regulations are furnished in the charge memo itself. Therefore, there is no necessity for the disciplinary authority to furnish copy of the Preliminary Enquiry Report. If the disciplinary were to simply attribute a misconduct to the petitioner without setting out necessary allegations in the charge-sheet under Regulation 28(xxxi) of the Conduct Regulations perhaps, the demand of the petitioner for copy of the enquiry report would have been justified. The crux of the matter in a disciplinary proceedings is that the charged employee should be told in clear terms what misconduct is attributed against him, with all relevant facts so that, the delinquent could be in a position to meet the charge effectively. If that test is applied to the facts of this case, it cannot be said that the two charges levelled against the petitioner are vague. As already pointed out supra, I do not find any contravention of the provisions of sub-regulation (3) of Regulation-12 of the CCA Regulations.

7. Adverting to the validity of the suspension order passed against the petitioner pending enquiry, suffice it to state that though it is well recognised right of the employer to keep an employee under suspension pending enquiry, that power had to be exercised keeping in mind the interest of institution and not arbitrarily and irrationally. Nothing is placed before the Court to satisfy itself that during the enquiry if the petitioner is permitted to serve, he would tamper the records or he would influence the witnesses to be examined in support of the disciplinary authority in the pending departmental enquiry. Further-more, by virtue of the interim order granted by this Court at the stage of admission itself, the petitioner has been continuing in service. Taking into account the totality of the circumstances, I think that justice would be met to both sides by directing the

disciplinary authority to conduct and complete the enquiry within time-frame and till then continue the petitioner in service.

8. In the result, the writ petition as regards it assails the validity of the charge-sheet dated 16-7-1998 is dismissed. The writ petition as regards it attacks the validity of the suspension order dated 16-7-1998 is allowed and the suspension order dated 16-7-1998 is quashed. The second respondent-disciplinary authority is directed to complete the disciplinary proceedings initiated against the petitioner expeditiously at any rate within a period of two months from the date of receipt of a copy of this order. No costs.