

(2000) 03 KAR CK 0082

In the Karnataka High Court

Case No : Writ Petition No's. 2766, 2767 and 2768 of 2000

Shanmukhayya

APPELLANT

Vs

The Division Controller, Karnataka State Road Transport
Corporation, Koppal Division, Koppal District

RESPONDENT

Date of Decision : 30-03-2000

Acts Referred:

Citation : (2000) 03 KAR CK 0082

Hon'ble Judges : P. Vishwanatha Shetty, J

Bench : Single Bench

Advocate : Sri S.A. Kalagifor Sri Maheshwaraswamy Hiremath, for the
Appellant; Sri L. Govindaraj, for the Respondent

Judgement

1. Since the petitioner in these petitions is the same person and since the contentions raised in these petitions being similar and identical, though these petitions are posted in orders list, with the consent of the learned Counsel appearing for the parties, these petitions are taken up for final hearing and disposed of, by this common order.

2. In these petitions, the petitioner has prayed for quashing the disciplinary proceedings initiated against him mainly on the ground of inordinate delay on the part of the respondents in conducting disciplinary proceedings initiated against the petitioner.

3. Sri S.A. Kalagi, learned Counsel appearing for the petitioner relying upon the decision of the Supreme Court in the case of State of Punjab and Others Vs. Chaman Lal Goyal, , submitted that the disciplinary proceedings initiated against the petitioner requires to be quashed on the ground of inordinate delay.

4. However, Sri L. Govindaraj, learned Counsel appearing for the respondent tried to support the action of the respondent. He pointed out that the charges levelled against the petitioner being of serious and grave in nature, having regard to the facts and circumstances of the case there is absolutely no

justification to quash the disciplinary proceedings initiated against the petitioner. He submitted that though the charges were issued in the year 1985, from the date of the incident till the year 1990, on account of dilatory tactics adopted by the petitioner; and from the year 1990, since the disciplinary proceedings were referred to the Conciliation, the disciplinary proceedings could not be completed till now.

5. Having heard the learned Counsel appearing for the parties, I am of the view, that the petitioner is entitled for the relief sought for by him in these petitions. It is not in dispute that the incident in question took place in the year 1985. The charge framed against the petitioner was that he had assaulted and man-handled the Head Mechanic on duty and also abused him with vulgar and unparliamentary words on 12th of April, 1985. The allegations made against the petitioner being fairly of serious nature, I do not find any justification for the authorities for having not instituted any criminal proceedings against the petitioner. No explanation has been offered for not instituting any criminal proceedings against the petitioner. On the other hand, it is the case of the respondents that ever since the year 1990, the conciliation proceedings were pending. If that is so, the respondents were willing to settle the dispute with the petitioner in respect of the alleged misconduct stated to have been committed by the petitioner. The petitioner is only a Driver. Since the incident in question has taken place on 12th of April, 1985, I am of the view that if the enquiry is allowed to proceed at this stage, it would seriously prejudice the defence of the petitioner. Though the Counsel for the respondent has placed material to show that the conciliation proceedings were instituted, he has not placed any material to show that the conciliation proceedings continued till the year 1999. There is also no material placed before me to show that subsequent to the incident in question, the petitioner has been involved in any misconduct. No material is also placed before me by the respondent to show that there was sufficient ground for the respondent not to conclude the disciplinary proceedings within a reasonable time, from the year 1990, even assuming that the petitioner had prevented the conclusion of the proceedings prior to the year 1990. The Supreme Court, in the case of *State of Punjab, supra*, has observed that if a long "delay is likely to cause prejudice to the delinquent officer in defending himself, the enquiry has to be interdicted". At paragraph 9 of the judgment, the Supreme Court has observed as follows:

"Now remains the question of delay. There is undoubtedly a delay of five and a half years in serving the charges. The question is whether the said delay warranted the quashing of charges in this case. It is trite to say that such disciplinary proceeding must be conducted soon after the irregularities are committed or soon after discovering the irregularities. They cannot be initiated after lapse of considerable time. It would not be fair to the delinquent officer. Such delay also makes the task of providing the charges difficult and is thus not also in the interest of administration. Delayed initiation of proceedings is bound to give room for allegations of bias, mala fides and misuse of power. If the delay

is too long and is unexplained, the Court may well interfere and quash the charges. But, how long a delay is too long always depends upon the facts of the given case. Moreover, if such delay is likely to cause prejudice to the delinquent officer in defending himself, the enquiry has to be interdicted. Wherever such a plea is raised, the Court has to weigh the factors appearing for and against the said plea and take a decision on the totality of circumstances. In other words, the Court has to indulge in a process of balancing.....".

In my view, the principle laid down by the Supreme Court in the above case, can be applied to the facts of the present case to quash the proceedings. As noticed by me earlier, it would not be fair to the petitioner, to allow disciplinary proceedings to continue. Further, the delay of 15 years in completing the disciplinary proceedings also makes the task of proving the charges levelled against the petitioner, very difficult; and therefore it is also not in the interest of the administration. Public time and the time of the officers holding public office, should not be allowed to be spent or wasted in conducting disciplinary proceedings, which will not bear any fruitful result and would not help in any manner either in toning up of the administration or punishing the guilty. While a delinquent official should not be absolved of his misconduct, it is necessary to point out that the authorities/officers in charge of completing the disciplinary proceedings, have a duty to complete the disciplinary proceedings within a reasonable time from the date of initiation of the disciplinary proceedings. The delay and laches on the part of the disciplinary authority in concluding the disciplinary proceedings within a reasonable time should not result in undue hardship or prejudice to the delinquent official. Whether the delay in concluding the disciplinary proceedings has resulted in serious prejudice to the delinquent official, has to be decided depending upon the facts and circumstances of each case. As noticed by me earlier, having regard to the facts and circumstances of this case, there is absolutely no justification to allow the disciplinary proceedings to continue.

6. In the light of the discussion made above, the disciplinary proceedings initiated against the petitioner is liable to be quashed. Accordingly, order dated 18th April, 1985 and the charge memo dated 7th October, 1986 and 8th March, 1985, are hereby quashed.

7. In terms stated above, these petitions are allowed and disposed of. Rule is issued and made absolute.