
(2013) 06 AP CK 0040
In the Andhra Pradesh High Court
Case No : Writ Petition No. 15173 of 2013

V. Srinivas

APPELLANT

Vs

Andhra Pradesh State Road Transport Corporation

RESPONDENT

Date of Decision : 04-06-2013

Acts Referred:

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(xii)

Citation : (2013) 5 ALD 798 : (2013) 4 ALT 471

Hon'ble Judges : Nooty. Ramamohana Rao, J

Bench : Single Bench

Advocate : V. Narasimha Goud, for the Appellant; H. Venugopal, SC for APSRTC,
for the Respondent

Final Decision : Dismissed

Judgement

Nooty. Ramamohana Rao, J.—The writ petitioner a conductor working for the State owned Andhra Pradesh State Road Transport Corporation (for short "APSRTC") challenges the validity of the charge sheet issued by the Depot Manager, Siddipet on 10.05.2013 calling for the explanation of the writ petitioner for three different charges. The writ petitioner is allegedly involved in criminal case No. 71 of 2013 and hence he was arrested and detained between 24.03.2013 and 03.04.2013. Due to his absence from service, he is now subjected to the disciplinary proceedings by framing three. different charges against him through the impugned charge sheet dated 10.05.2013.

2. Sri V. Narsimha Goud, learned counsel for the petitioner would submit that the writ petitioner, for certain inexplicable reasons has been unnecessarily involved in a criminal case and he sought to be victimised on that ground. He would urge that the contents of the complaint lodged against the petitioner, which is treated as F.I.R., would disclose the hollowness behind the claim of the Prosecutrix, but unfortunately he will have to await judgment by the Criminal Court which might take a longer period. Learned counsel for the petitioner would further urge that

the conduct of the writ petitioner, so long as he is discharging his duties, was beyond any reproach and he has not even spoken to adversely for one to point out an accusing finger towards him. Therefore, placing the writ petitioner under suspension and then framing a charge against him is totally unjust. Further, learned counsel for the petitioner would urge that the Corporation itself has realised the futility behind placing employees under suspension, pending criminal cases, and hence issued detailed instructions through their Circular No. LC5/82-83 dated 14.02.1983 and in spite of the same respondent No. 2 - Depot Manager has committed the very same folly which the Corporation thought should be avoided.

3. Employment with the APSRTC is a public employment. APSRTC is a corporation which is a state owned corporation and thus is the visible face of the State itself. Persons who are said to be involved in serious criminal cases cannot be permitted to continue in employment as the morale at work place would first get shattered and secondly in the perception of the general public, the image of the State itself will get diminished. Public employment calls for high elements of moral and ethical conduct on the part of its employees. Should anyone, unfortunately get involved in criminal cases, he had to suffer the ignominy in private, but cannot be allowed to perform his duties till such time he is either acquitted or discharged from such criminal cases. Otherwise it is the image of the public employment, which would get dented in the process. That is the philosophy enshrined behind the concept of "deemed suspension" of an employee who is detained in custody for more than 48 hours. Such a fictional suspension of the contract of employment spings automatically the moment the period of detention crosses 48 hours. In view of this public policy and rational thought process behind such fictional suspension, I am not able to subscribe to the view points canvassed by the petitioner against the impugned order.

4. Sri V. Narsimha Goud, learned counsel for the petitioner also talked about the circular instructions dated 14.02.1983. The circular instructions make it clear that in accordance with regulation 18 (6) of the A.P.S.R.T.C. Employees (Classification, Control and Appeal) Regulations, an order of suspension can be reviewed by the competent authority by taking a holistic view about the entire matter. Further, the circular instructions clearly made out a distinction between the conduct of employees getting involved in heinous crimes and those involved in not so heinous crimes. Therefore, in my opinion the circular instructions dated 14.02.1983 have offered a valid base or platform and guidelines for the purpose of taking action in accordance with Regulation 18(6). Unfortunately for the petitioner in the instant case he is allegedly involved in a heinous crime against a woman, and hence, I am of the opinion that the circular instructions are of no avail to the petitioner, but, however, the matter does not rest there. In his anxiety to subject the writ petitioner to disciplinary proceedings, the Depot Manager, Siddipet has framed charge No. 2 which reads as under:--

For having involved in a Crime Case No. 71/13, U/S 376, 417 & Sec. 3(xii) SC/ST

POA Act 1989 and arrested by the police, Sangareddy town and remanded in District Jail, Sangareddy on 24-03-13 & released on bail on 03-04-13 by executing a bond for Rs. 10,000/- with two sureties, which constitutes to misconduct under Regulation No. 28 (xv) of APSRTC Employees" (Conduct) Regulations 1963.

5. This is a kind of charge where the petitioner can neither submit nor resist it, as at present advised. Above all, no person can be compelled to incriminate himself in any crime. Hence, no employee can be forced to admit any such charge. For instance, if an employee denies his involvement in criminal cases, there is nothing that the disciplinary authority can conduct an enquiry in that regard thereafter. He has no power and authority of forming an opinion as to the true involvement of the employee in the alleged crime. That task has been specifically entrusted to a competent Sessions Court, which can form an opinion after collecting all the necessary and relevant evidence. It is for the competent Criminal Court to pronounce the opinion as to the involvement or the lack of it on the part of a particular person in a crime. Therefore, there is no way a disciplinary authority like the Depot Manager can pronounce an opinion one way or the other on the above quoted charge No. 2. Therefore, in my opinion framing any such charge is an absolute redundant exercise and is not warranted by law.

6. Therefore, the respondents will not proceed any further in the matter with regard to Charge No. 2 framed against the petitioner. Except to the extent indicated supra, I do not otherwise find any merit in this writ petition, and accordingly this writ petition is dismissed at the admission stage, after hearing Sri H. Venugopal, learned Standing Counsel for the respondents. The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand dismissed.