APHC010208052018

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3333]**
(Special Original Jurisdiction)

MONDAY,THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 9072 OF 2018

Between:

1. R.VENKATA RAMANA, S/O CHINNA REDDAPPA, 50 YEARS, E.553876, DRIVER, H.NO. 877, INDIRAMMA COLONY, KAKALARAMPALLI PANCHAYAT POST, PILERU, CHITTOOR DISTRICT.

...PETITIONER

AND

1. ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION, REP. BY ITS MANAGING DIRECTOR, PANDIT NEHRU BUS STATION, VIJAYAWADA.
2. THE DEPOT MANAGER, A.P.S.R.T.C. PILERU DEPOT, CHITTOOR DISTRICT.
3. THE DEPOT MANAGER, A.P.S.R.T.C. PALAMANERU DEPOT, CHITTOOR DISTRICT.
4. THE REGIONAL VICE PRESIDENT, NATIONAL MAZDOOR UNION, APSRTC PILERU DEPOT, CHITTOOR DISTRICT.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, or order or direction more particularly one in the nature of writ of Mandamus declaring the Show Cause Notice of removal No.O2/95(320)/2017-PLR dated 27.02.2018 of the 2nd Respondent is without jurisdiction, arbitrary, unjust, in violation of Principles of Natural

Justice, contrary to the guidelines issued in Circular No.PD-10/2002 dated 09.03.2002, contrary to Conduct Regulations and C.C and A Regulations, discriminatory and in violation of Article 14 and Article 21 of the Constitution of India and set aside the same and consequently direct the Respondents to permit the petitioner to discharge the duties as driver in the interest of justice and fair play and pass

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings pursuant to Show Cause Notice of removal No.O2/95 (320)/2017-PLR dated 27.02.2018, pending disposal of the writ petition and pass

IA NO: 2 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Vacate the Interim orders dated 23.03.18 passed in I.A. No. 01 of 2018 in W.P.No. 9072 of 2018 and pass

Counsel for the Petitioner:

1. A G SATYANARAYANA RAO

Counsel for the Respondent(S):

1. ARAVALA RAMA RAO(SC FOR APSRTC KKAC)

The Court made the following:

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 9072 OF 2018

ORDER:-

This Writ Petition is filed questioning the Show Cause Notice of removal No.O2/95(320)/2017-PLR dated 27.02.2018 of the Respondent No.2 is without jurisdiction, arbitrary, unjust, in violation of Principles of Natural Justice, contrary to the guidelines issued in Circular No.PD-10/2002, dated 09.03.2002, contrary to Conduct Regulations and CC&A Regulations and set aside the same and consequently direct the Respondents to permit the Petitioner to discharge the duties as driver in the interest of justice.

2. The Petitioner was appointed as a Contract Driver in March, 2005 and his services were regularized on 01.01.2010. While the matter stood thus, on 23.11.2017, the Petitioner was allotted duty to operate the Marriage Special Hire Service. The Petitioner was instructed by the Depot clerk to allow 55 persons belonging to marriage party and after completion of boarding of their boarding, stop the bus and issue money receipts to the extra persons boarding the said bus. As per the instructions of Depot Clerk, petitioner picked up persons belonging to marriage party at Pileru Cross Roads and while he tried to issue Money Receipt the head of the marriage party shouted on the Petitioner that it was already late by one hour and asked to issue money receipt after boarding of all the persons of marriage party at Kallur and Damalacheruvu. Accordingly, the Petitioner picked up persons belonging to marriage party at Kallur and Damalacheruvu and stopped the bus at

Damalacheruvu for counting of persons for issuing the money receipt. At that time TTI's have entered into the bus. The Petitioner having completed the counting has informed the TTI's that there are 82 persons in the bus and he is issuing money receipt for extra 27 persons. But the TTI's have confiscated the Statistical Return, counted the number of persons once again and issued a Charge Memo alleging that extra persons were not recorded in the Statistical Return, despite observing that the bus was stopped at the last pickup point Damalacheruvu and that the Petitioner was counting the persons who boarded the bus there so as to make entry in the Statistical Return. The Respondent No.2 on receipt of the Charge Memo placed the Petitioner under depot spare on 25.12.2017 and a Charge Sheet was also issued on 01.12.2017 alleging that the Petitioner has not issued tickets for 27 extra passengers. Thereafter, the Petitioner was placed under suspension, vide order dated 04.12.2017. Aggrieved by the same, the Petitioner filed W.P.No. 43616 of 2017, which was allowed by this Court on 21.12.2017 and set aside the order of suspension, with a liberty to conclude the enquiry. Thereafter, an enquiry was conducted by duly recording the statement of the Petitioner as well as the persons who hired the bus. Basing upon the enquiry report, as the findings of the enquiry report holds that the charges framed against the Petitioner are proved, the Respondent No.2 issued impugned Show-Cause Notice for removal of the Petitioner on 27.02.2018. Aggrieved by the same, the present Writ Petition came to be filed.

3. When the Writ Petition come up for admission on 23.03.2018, this Court passed the interim order that "*Meanwhile, there shall be interim stay as prayed for".*

4. The Respondents filed a detailed Counter-Affidavit admitting the facts as stated by the Petitioner. But however it is stated that the Petitioner having received the Show-Cause Notice of removal have requested the Respondent No.2 to grant some time to submit his explanation. Respondent No.2 has permitted the Petitioner to submit his explanation on or before 21.03.2017. As the Petitioner has failed to submit his explanation even after availing sufficient time, the Respondent No.2 has passed the removal order dated 22.03.2018 basing on the record available and seriousness of the case. It is further stated that in compliance of an interim order passed by this Court dated 23.03.2018, the removal order passed against the Petitioner has been revoked.

5. On perusal of the affidavit and material papers filed by the Petitioner, it is an admitted fact that the Petitioner was allotted to operate the marriage special hire service on 23.11.2017 in the capacity of driver-cum-conductor. The said bus was hired on deposit of a sum of Rs. 21,500/- towards advance for two trips on 08.11.2017. The Petitioner was informed by the Depot Clerk that he has to operate two trips and was also instruct to allow 55 persons of marriage party and after completion of boarded 55 persons of marriage party, to stop the bus and issue money receipts to the extra passengers, who are picked en-route. After boarding extra passengers belonging to marriage party at Kallur, while the Petitioner was trying to issue money receipt, the head of

the marriage party shouted on the Petitioner stating that it was already late by one hour and also insisted to issue money receipt after boarding of all the persons of the marriage party at Kallur and Damalacheruvu. Adhering to the instructions given by the head of the marriage party, the Petitioner stopped the bus at Damalacheruvu for counting of persons and to issue money receipt, meanwhile, the TTI's have entered into bus and identified that the Petitioner has failed to issue money receipts for extra persons. Therefore, a Charge Memo was issued on 01.12.2017. Aggrieved by which, the Petitioner was also placed under suspension vide orders dated 04.12.2017 issued by the Respondent No.2, which was under challenge in W.P.No. 43616 of 2017, wherein this Court allowed the Writ Petition, vide order dated 21.12.2017 and set aside the suspension order, granting liberty to conclude the enquiry.

6. Subsequently, an enquiry was conducted by the department by examining the head of the marriage party i.e Mr. K. Venkataramana, who categorically stated during the course of enquiry as follows:-

> *….that on 08.11.17 himself along with his relatives had went to APSRTC Piler depot and booked RTC bus for Marriage Special Hire from Sorkayalapeta to Kanipakam which was occurring on 23.11.2017 and paid Rs. 21,500/- vide M.R.No.0/0099746 to the Piler depot officials for two trips and the depot authorities had allotted bus no. AP 03 Z 0993 for them. Further on 23.11.2017 at about 16.00 hrs, while starting the bus at Thogatapalle near Sorakayalapeta, the RTC driver by name Sri R. Venkata Ramana who booked as a driver for their Marriage Special bus, had told to them that "he will operate one trip only" and he had informed to the driver that "we have paid amount for two trips". Then themselves and the bus driver are went to Piler depot and the depot authority had orally informed to the bus driver to operate two trips and the bus driver also accepted and due to above said*

incident, their journey was late by one hour. After that the bus driver informed to him that "he have to issue Money Receipt to the extra passengers at the boarding point itself those who boarded the bus of the above seating capacity of 55". Immediately he had shouted on bus driver Sri R.V. Ramana in angry manner by stating that "we have already in late by one hour and after boarding of all the passengers at Piler cross, Kalluru and Damalacheruvu, you can issue Money Receipt to all extra passengers even after counting total number of persons at Damalacheruvu".

Then, the bus driver had accepted his version and picked nearly 27 extra passengers i.e 21 adults + 6 chargeable children at Piler cross, Kallur and Damalacheruvu and just after crossing Damalacheruvu, the bus driver had stopped the bus to count the total number of persons. In the meantime, the Checking Officials have boarded the bus for checking purpose and himself and bus driver have informed above said entire incident to the Checking Officials. But they did not consider his and bus driver version and framed a case against the bus driver. In this regard he submit that when ever the bus driver Sri R.V.Ramana has informed to him that he have to issue Money Receipt the extra passengers at the boarding point, he had shouted on him by stating that "we have already in late by one hour and after boarding of all the passengers at Piler cross, Kalluru and Damalacheruvu, you can issue Money Receipt to all extra passengers even after counting total number of persons at Damalacheruvu" and there is no any fault on bus driver side. The above said fact incident was occurred on that day and accordingly he had given his statement in the domestic enquiry."

7. On perusal of the enquiry report, dated 03.02.2018, in pursuance of which the impugned show-cause notice was issued to the Petitioner, it can be observed that the explanation given by the said K. Venkata Ramana, who has hired the bus was not considered by the Respondent Authorities as there is no such reference in the findings of the enquiry officer, which establishes the fact that the enquiry officer has failed to appreciate the evidence on record in proper manner. On the other hand, the Counter-Affidavit would clearly

disclosed that in compliance to the interim order of this Court dated 23.03.2018, the removal order passed as against the Petitioner has been revoked. In spite of the same, the impugned show cause notice is still in force, which was issued in consequence to the enquiry report, wherein the Enquiry Officer held that the charges are proved without even referring to the statement given by head of the marriage party i.e. K.Venkataramana.

8. In view of the same, the Writ Petition is allowed by setting aside the impugned show-cause notice No.O2/95(320) 2017-PLR dated 27.02.2018 and the consequential removal order dated 22.03.2018. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUSTICE V.SUJATHA

Date: 22.06.2026
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