Date of reserved for orders : 22.06.2026
Date of pronouncement : 22.06.2026
Date of uploading : 03.07.2026

APHC010208272018

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: 9065 OF 2018

Between:

1. D.V.RAMUDU,, S/O. VENKATAPATHI, AGE 49 YEARS, DRIVER, E. 601221, R/O. D.NO.I4-9-26/1, SURYA NAGAR, RAMACHANDRAPURAM, EAST GODAVARI DISTRICT.

...PETITIONER

AND

1. THE A P S R T C, REP. BY ITS VICE CHAIRMAN AND MANAGING DIRECTOR, MUSHEERABAD, HYDERABAD, A.P.
2. THE DEPOT MANAGER, APSRTC, RAMACHANDRAPURAM., EAST GODAVARI DISTRICT
3. THE DEPUTY CHIEF TRAFFIC MANAGER, APSRTC, RAJAHMUNDRY, EAST GODAVARI DIST.
4. THE REGIONAL MANAGER, A.P.S.R.T.C, RAJAHMUNDRY, EAST GODAVARI 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 a Writ or order or direction more particularly one in the nature of Writ of Mandamus, declaring the proceedings No. 02/95(66)/2010-RCPM

dt.22.07.2011 issued by the 2nd respondent to the extent of imposing punishment Annual Increment be differed for a period of two (2) years with Cumulative effect and the consequential proceedings No.PA/20(178) /12mDY.CTM.JY dt.21.01.2012 issued by 3rd respondent and 4th respondent Proceedings No.PA/20(112)114- RM.G. Dt.27.01.2015 as illegal, arbitrary, void, discriminative and against to principles of natural justice 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 suspend the proceedings No. 02/95(66)/2010-RCPM dt.22.07.2011 issued by the 2nd respondent to the extent of imposing punishment Annual Increment be differed for a period of two (2) years with Cumulative effect and the consequential proceedings No.PA/20(178)/12-DY.CTMRJY dt.21.01.2012 issued by 3rd respondent and 4th respondent Proceedings No.PA/20(112)114- RM.EG. Dt.27.01.2015 and pass

Counsel for the Petitioner:

1. T S VENKATARAMANA

Counsel for the Respondent(S):

1. K SRINIVASA PRASAD SC For APSRTC

The Court made the following:

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 9065 OF 2018

ORDER:-

The Writ Petition is filed questioning the proceedings No. 02/95(66)/2010-RCPM dt.22.07.2011 issued by the Respondent No.2 to the extent of imposing punishment Annual Increment be differed for a period of two (2) years with cumulative effect and the consequential proceedings No.PA/20(178)/12-DY.CTM:RJY, dt.21.01.2012 issued by Respondent No.3 and Proceedings No.PA/20(112)114- RM.G. Dt.27.01.2015 issued by Respondent No.4 as illegal and arbitrary.

2. The case of the petitioner is that he was appointed as a driver in the respondent corporation on 10.05.2005 and posted to Ramachandrapuram depot. While he was on duty in the vehicle number AP 29 Z 3671 en-route Vijayawada to Gangavathi on 12.08.2010, a surprise check was conducted at stage No.21 and a small sealed packet was found with an address near the seat of the Petitioner, from which luggage ticket was not punched, for which a charge memo was issued by the TTI's on the spot i.e on 12.08.2010. Basing on the said charge memo, respondent No. 2 placed the petitioner under suspension on 24.08.2010, aggrieved by which, the petitioner was constrained to file W.P.No.25101 of 2010. The said Writ Petition was allowed by this court, vide Order, dated 06.10.2010 setting aside the suspension order passed by respondent No.1 therein.

3. The case of the petitioner is that the suspension orders were enclosed with a charge sheet issued on the same day i.e on 24.08.2010, for which, the petitioner has submitted an explanation to the respondent No. 2 duly stating that on the fateful day an ANL parcel was handed over to him at Tanuku to a person at Manvi. But however, immediately after receiving the explanation, an enquiry officer was appointed, who in turn has submitted an enquiry report on 23.02.2011. Basing on which, respondent No. 2 again issued a show case notice on 30.05.2011, duly enclosing the enquiry report calling for an explanation as to why two annual increments cannot be withheld as the charges framed against the petitioner are proved, for which the petitioner has submitted an explanation on 30.06.2011, duly stating that the initial suspension order, dated 24.08.2010 issued by the respondent No.2 was set aside by this court, vide Order, dated 06.10.2010, in pursuance of which, he has taken back into the service. But however Respondent no. 2 has proceeded with the disciplinary proceedings contrary to the orders passed by this Court and also issued Proceedings dated 22.07.2011 imposing penalty of deferment of two annual grade increments for 2 years with cumulative effect, which was confirmed by the Respondent No.3/ Appellate Authority on 21.01.2012 and also in a revision by the respondent No. 4, vide Order, dated 22.10.2014. Aggrieved by which the present Writ Petition came to be filed.

4. The Respondents filed a detailed Counter-Affidavit by admitting the facts as stated by the petitioner, but however, it is stated that based on the report submitted by the enquiry officer, the respondent No. 2 awarded

punishment of deferment of two annual increments, vide proceedings dated 22.07.2011 which was further confirmed in appeal as well as in a review preferred by the petitioner. It is further stated that the petitioner being the responsible employee of the corporation, while performing his duties accepted a packet weighing approximately 4 kgs from Tanuku to Manvi, unaccompanied with luggage ticket or receipt tagged by ANL parcel service, which amounts to misconduct on the part of the petitioner, and as such the punishment awarded is perfectly legal and correct and requested to dismiss the petition.

5. Admitted facts in the present case is that the petitioner was appointed as a driver in the respondent/ corporation on 10.05.2005. While on his duty between Vijayawada and Gangavathi a sealed packet was found near the seat of the petitioner, wherein luggage ticket was not punched, which is the basis for issuance of charge memo by the TTI's on 12.08.2010 on the spot, which reads as follows:-

> "*For having allowed a packet weighing approximately 4 kgs from Tanuku to Manvi in your service bearing number AP 11 Z 5561 without any unaccompanied luggage permit or accompanying any other by accepting Rs.15 while you are performing the duty of Draksharama-Gangavathi on 12.08.2010, which is a misconduct vide Reg.28(x) and (xxxi) of APSRTC Employees (Conduct) Regulations, 1963."*

6. Basing on the said charge memo issued by TTI, the Petitioner was placed under suspension vide orders dated 24.08.2010 and also issued a charge sheet on the same day, thereafter, the Petitioner has filed

W.P.No.25101 of 2010 challenging the suspension order, dated 24.08.2010, but however, submitted an explanation on 30.08.2010 to the said charge sheet. After hearing both sides, this Court allowed the Writ Petition No.25101 of 2010 by setting aside the suspension order, dated 24.08.2010 duly holding that "*the generosity shown by the petitioner to oblige a person in need to deliver a packet enroute, ought not to have been treated as an act of misconduct at all*". This Court also observed that as the person was not accompanied with the goods, there is no necessity to collect the fare and issue a luggage ticket. When this Court categorically observed that the charge framed against the Petitioner cannot be treated as an act of misconduct at all, the Respondents proceeding with the enquiry and passing the impugned order, dated 22.07.2011 is nothing but contrary to the observations made by this Court in W.P.No.25101 of 2010.

7. However, in the explanation submitted by the Petitioner, he himself admitted that he was paid Rs.15/- for the parcel and as he was busy with the passengers who were entering the bus, he could not issue the luggage ticket. Therefore, this Court is of the opinion that the said punishment imposed against the Petitioner, vide impugned orders, dated 22.07.2011 can be modified to the extent of withholding the annual increment for a period of two years without cumulative effect.

8. In the result, the Writ Petition is disposed of modifying the punishment imposed in the proceedings No.02/95(66)/2010-RCPM, dated 22.07.2011 from withholding of annual increment for a period two years with

cumulative effect to that of “withholding of annual increment for a period two years **without** cumulative effect”. 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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Whether the order is:

Speaking Reasoned

Reportable Non-reportable.