

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.39662 of 2015

Dated : 08.12.2015

Between:

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N. Janardhan S/o.N. Balaiah,
Hindu, Aged about 55 yrs,
Occu : Security Assistant Sub-Inspector RTC,
No.E.250612, SASI, Miyapur-2 Depot,
R/o.H.No.2-2-1107/73,
Tilak Nagar, Hyderabad & 2 others.

.. Petitioners

And

Depot Manager,
T.S.R.T.C.,
Miyaur-2 Depot,
Ranga Reddy District, Hyderabad & another

.. Respondents

This Court made the following :

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ORDER :

With the consent of learned counsel for the petitioners as well as learned Standing Counsel for the respondents, this Writ Petition is disposed of at the admission stage.

2. In this writ petition the petitioners are three in number. The 1st and 3rd petitioners are working as Security Assistant Sub Inspectors and 2nd petitioner is working as constable in the respondent-Corporation. It appears that with reference to Miyapur-2 Depot, there were certain allegations of manipulating the attendance register of out-sourcing workers of yard sweeping and unauthorized entry of name of one Sri Kumar by the 2nd petitioner for five months. It is also alleged that the 2nd petitioner made unauthorized entry of names of four other workers in the register maintained for washing and sweeping of buses contract in the month of May 2015. On 19.05.2015 the attendance was marked to those four persons, though they were not actually working.

3. It is alleged against the 1st petitioner that he has certified the attendance register in a casual manner without verifying the security records resulting in variation in the names of workers and attendance and contractor was paid ineligible remuneration. In so far as the 3rd petitioner is concerned it is alleged that he failed to maintain the attendance register of out-sourcing workers and certified the attendance in a casual manner depending on the certification of AE(M). It is also alleged that he has instructed his subordinate i.e., the 2nd petitioner to enter the names of one Sri Kumar in Yard sweeping in

attendance register and kept blank without marking attendance against his name, with malafide intention, till December 2014. This resulted in payment of ineligible remuneration to the contractor.

4. It appears that preliminary enquiry was conducted and in the said enquiry, *prima-facie* material is found against all the petitioners.

5. Having regard to the same and considering the preliminary enquiry report, the competent authority passed orders of suspension on 02.11.2015 suspending all the three petitioners from service and on the same day charge memos were served on them making separate allegations against each of them. Challenging the order of suspension, this writ petition is filed.

6. Learned counsel for petitioners made extensive submissions against suspension from service. According to learned counsel, petitioners never indulged in boosting up workers attendance. A false and frivolous allegation is made. Allegations are baseless.

7. Learned counsel further submitted that in matters of trivial nature and which cannot be verified, suspension should not be resorted to.

8. Learned counsel further submitted that suspension cannot be resorted to as a matter of course. The disciplinary authority should take into consideration the relevant facts and attendant circumstances. Petitioners have filed their explanations on 15.11.2015 denying the allegations and they are willing to face the domestic enquiry.

9. Based on the law laid down in long line of precedents, it is clear that in matters of suspension, the exercise of extra-ordinary power of judicial review vested in this court under Article 226 of the Constitution of India is very limited. Scope of consideration is limited to

the extent of examining the competence of the authority who places an employee under suspension; arbitrary exercise of power; selective suspension; allegations are frivolous/technical in nature; suspension was wholly unwarranted; and there was no application of mind. In matters of suspension, each case has to be examined in the factual back ground of given case within the above parameters. While taking the decision to place an employee under suspension what all is required is *prima facie* case of gravity of the charge.

10. *Prima-facie* as seen from the respective orders of suspension, the same is passed after preliminary enquiry on the alleged irregularities committed by each of the petitioners which resulted in financial loss to the respondent-Corporation. It is appropriate to notice that on the same day charge memo was also drawn and served on the petitioners.

11. In **UNION OF INDIA V. ASHOK KUMAR AGGARWAL**^[1], Supreme Court held as under:

“27.it is not desirable that the court may find out as to which version is true when there are claims and counterclaims on factual issues. The court cannot act as if it is an appellate forum de hors the powers of judicial review.”

12. Whether there was any truth on the allegations made against the petitioners, whether petitioners indulged in making wrong entries of persons though they did not work, resulting in higher payment of money to the contractor than he is entitled, and the actual attendance of workers are the matters which require consideration during the course of enquiry and at this stage, this Court cannot go into the merits of the allegations.

13. The competency of the authority that placed them under suspension is not doubted and, therefore, there is no error in exercise of jurisdiction. Thus, the order is not vitiated on that ground.

14. As seen from the impugned order, the competent authority considered the preliminary enquiry report and having found *prima-facie* misconduct of the petitioners, they were placed under suspension. *Prima facie*, the allegations made against petitioners cannot be said as trivial. Thus, it cannot be said that order of suspension is made for extraneous consideration or without application of mind and that it is not supported by material on record. Thus, I do not see any error in suspending the petitioners from the service warranting interference by this Court.

15. Accordingly, the writ petition is dismissed. There shall be no order as to costs. However, the disciplinary authority is directed to conclude the disciplinary action as expeditiously as possible, preferably within eight (8) weeks from the date of receipt of the copy of the order. It is made clear that what is discussed in the above paragraphs is for the purpose of considering the validity of the orders of suspension and shall not prejudice the defense of the petitioners in the disciplinary proceedings.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO,J

08th December, 2015

Note : Issue c.c. in three (3) days

B/o.

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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[\[1\]](#) (2013) 16 SCC 147