

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.39652 of 2015

Dated : 08.12.2015

Between:

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V. Buchaiah, S/o.Ramaiah,
Aged 50 yrs, Occu : Driver,
R/o.H.No.3-4-620, Indira Nagar,
Enugulagadda, Hanamkonda, Warangal.

.. Petitioner

And

The Telangana State Road Transport Corporation,
Rep., by its Managing Director,
Musheerabad, Hyderabad & 2 others.

.. Respondents

This Court made the following :

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ORDER :

The petitioner is a driver in the respondent-Corporation. On the crucial day, the petitioner was assigned with the responsibility of taking the bus in the route of Parkal to Hanamkonda, Hanamkonda to Parkal and Parkal to Uppal X Roads. On the same day the petitioner was also assigned the duty of issuing of tickets to the passengers travelling in the bus. It appears that petitioner was to take the bus from Parkal to Hanamkonda, return to Parkal and again from Parkal to Uppal X Roads. But the petitioner took the bus from Parkal to Hanamkonda and directly brought the bus to Hyderabad from Hanamkonda. On inspection conducted in the bus, the inspecting team found that a passenger was traveling to Hyderabad on a ticket valid upto Rs.32/- and on the back of the ticket an amount of Rs.200/- was written. Noticing the ticket and cash irregularities, disciplinary action was initiated and petitioner was placed under suspension by order dated 17.11.2015 and on the same day petitioner was served with charge memo. The charge memo contains two allegations. The first one relates to cash and ticket irregularities and the second one relates to taking the bus from Hanamkonda to Hyderabad, without travelling to Parkal. The petitioner challenges the said order of suspension in this writ petition.

2. Learned counsel for the petitioner contends that infact the material on record would support that the petitioner has issued the correct fare ticket to the passenger. The passenger boarded the bus at Parkal and was supposed to get down at Hanamkonda. The petitioner was not aware that the said passenger did not get down at Hanamkonda and travelled directly to Hyderabad. The petitioner was also not aware that the passenger was sitting in the bus without

collecting the fare and ticket for her travel from Hanamkonda to Hyderabad. In fact there was heavy rush in the bus and there was no occasion for the petitioner to find her.

3. Learned counsel submits that there is no justification to place the petitioner under suspension on trivial charge. Furthermore, when there is no possibility of tampering of evidence or influencing the witness, suspension need not be resorted to. In the instant case, everything is on record. Petitioner is only a bus driver, he cannot have access to the record. His continuation in service cannot be said as detrimental to the respondent corporation. On the contrary, continuation of suspension would only deprive the experienced driver attending to the bus service.

4. 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.

5. The competency of the Depot Manager to place the driver under the suspension is not doubted and, therefore, there is no error in exercise of jurisdiction. Thus, the order is not vitiated on that ground.

6. In the facts of this case, it cannot be said there was no application of mind by the competent authority. The reading of the order of suspension would make it clear that disciplinary authority has not taken hasty decision to suspend. Only after a preliminary enquiry was conducted he placed the petitioner under suspension.

7. It cannot be said that impugned order is result of illegal

exercise of power or amounting to arbitrary exercise of power. 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. In matters of this nature, employer not only looks at the conduct of employee *per se*, but in the larger perspective of enforcement of discipline, he would intend to send across a message to the employees that indulging in such illegal activities would not be spared. Enforcement of discipline is within the domain of employer. On a *prima-facie* consideration of the allegations leveled against petitioner, it cannot be said that the allegation is trivial in nature.

8. 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.”

9. The tenability of the allegation and the involvement of petitioner can only be gone into during the departmental enquiry and this Court cannot express any opinion on merits of the allegation. I, therefore, see no error in the order of suspension warranting interference by this Court.

10. Accordingly, the writ petition is dismissed. There shall be no order as to costs. However, the disciplinary authority is directed to complete the enquiry and disciplinary action as expeditiously as possible, preferably within six weeks from the date of receipt of the copy of the order. The petitioner shall also cooperate in early completion of the enquiry. It is made clear that what is discussed in the above paragraphs is for the purpose of considering the validity of the order of suspension and shall not prejudice the defense of the petitioner in the disciplinary proceedings.

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

P.NAVEEN RAO,J

08th December, 2015
Rds

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