

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 1613 OF 2015

ORDER:

The petitioner, who is employed as a Superintendent (Mechanical) and attached to Rayachoty Bus Depot of the Andhra Pradesh State Road Transport Corporation at the relevant point of time, has been subjected to a disciplinary enquiry for a gross act of misconduct said to have been indulged in by him by assaulting a co-supervisor with his slippers. He was placed under suspension initially, pending such enquiry, and after conducting the disciplinary enquiry, duly following the procedure prescribed under the APSRTC Employees' (CCA) Regulations, 1967, the Executive Director of the Corporation has taken a relatively compassionate view of the matter and through his proceedings, dated 15.02.2007, imposed the punishment of reduction of pay by two incremental stages, for a period of two years, which will have the effect of postponing the future increments, which means, reduction of pay by two stages with cumulative effect. Further, the period of suspension from the date of suspension to the date of reporting at the new place after lifting the suspension was ordered to be treated as 'not on duty' for the purpose of leave, wages and increments. Even in this regard, the Executive Director appears to be a very considerate person. During the suspension period, as is required by the Regulations of the Corporation, the petitioner had been paid the subsistence allowance. Therefore, the period of suspension has been treated as 'not on duty' for the purpose of wages, increments and leave only. In other words, for the rest of the purposes, such as counting it as qualifying service, for terminal benefits, he has not been denied the benefit. Be that as it may, the petitioner went in Appeal before the Managing Director of the Corporation by submitting it on 17.03.2007. The Managing Director considered the matter and by his order, dated 29.10.2008, found no reason to interfere with the order of punishment imposed by the

Executive Director of the Corporation and hence, rejected the Appeal. More than six years after the Appeal preferred by the writ petitioner has been rejected by the Managing Director on 29.10.2008, the present Writ Petition is filed.

Sri S.A.K. Mynoddin, learned counsel for the petitioner would submit that for a single act of misconduct, multiple punishments have been imposed on the petitioner which is impermissible, inasmuch as Regulation 8 of the 1967 Regulations would start reading that for the proven misconduct, any one of the punishments listed out therein, shall be imposed, but not multiple punishments and hence, the order of punishment and the order of rejection of Appeal by the Managing Director are both vitiated. I find no merit in this contention. The Executive Director of the Corporation has imposed one single punishment, namely reduction of his basic pay by two stages for a period of two years with cumulative effect. The subsequent portion of the order of punishment declaring that the period of suspension will not be counted for the purpose of wages, leave, etcetera is not a punishment at all. It is only for regulating the period of suspension of an employee. Therefore, I do not find any merit in the contention canvassed by the petitioner in this regard.

I am of the opinion that the Executive Director has taken all the facts and circumstances into account and consideration. He has imposed the punishment, which is most commensurate to the proven misconduct indulged in by the petitioner. The petitioner is occupying a superior position amongst the work force and therefore, he is under an obligation to maintain decency and decorum at the work place. Contrary thereto, the petitioner is alleged to have slapped another colleague at the work place with his slippers. That is a major misconduct on the part of the writ petitioner. At an industrial establishment, if the peace and tranquility is sought to be disturbed and spoiled, emotions are bound to run very high and the productivity of the industrial unit will get impaired. Therefore, such misconduct has

got to be dealt with sternly and that is what has been done in the instant case. But at the same time, the Executive Director of the Corporation has balanced the interests of all sides very appropriately. He has imposed one of the most commensurate punishments by reducing the pay of the individual by two stages with cumulative effect, so that he will be able to realize the folly committed by him at the work place and see to it that he will not repeat such misconduct once again. Therefore, looked at from any angle, I do not find any infirmity, legal or otherwise, in the orders passed by the Executive Director and similarly, while rejecting the Appeal, the Managing Director has assigned tenable reasons as to why the Appeal of the petitioner is not liable to be entertained and the order of punishment is not liable to be interdicted.

More than six years time has elapsed. The only explanation offered by the petitioner in the affidavit filed in support of this Writ Petition is spelt out very tersely in paragraph 9. He simply submitted that "I suffered ill-health and underwent heart surgery in the year 2009 at NIMS, Hyderabad and thereafter, I continued my treatment as an out-patient. As per the prescription given by the doctors, I am using the medicines." That is hardly any justification for one not to have approached this Court within a reasonable period of time. Normally, for one to invoke the provision under Article 226 of the Constitution of India, there is no specified period of limitation prescribed, but that does not mean that a person can invoke the certiorari jurisdiction or seek for a writ of mandamus at any later point of time. It is within a reasonable period of time, one must approach the Court and three years period is always reckoned as a reasonable period of time. For the reason that there is no explanation, much less a proper and an acceptable one, for the petitioner to have failed to come to this Court within a period of three years from the date on which the order of rejection of Appeal has been passed by the Managing Director in October, 2008, the Writ Petition deserves to be dismissed for laches.

Accordingly, for the aforementioned reasons, this Writ Petition stands dismissed at the admission stage after hearing Sri A. Rama Rao, learned Standing Counsel for APSRTC. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

30th January 2015

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