

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.35729 of 2015

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DATED : 03.11.2015

Between :

P. Sundaraiah, E.408379

S/o.P.Bhaskar,

Aged about 50 yrs, Occu : Driver (APSRTC),

A.P.State Road Transport Corporation,

Koilakuntla Depot, Kurnool District.

.. Petitioner

and

The Andhra Pradesh State Road Transport Corp.,

Rep., by its Managing Director,

Musheerabad, Hyderabad & others.

.. Respondents

This court made the following :

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ORDER :

The petitioner is a driver in Andhra Pradesh State Road Transport Corporation. While on duty on the fateful day on a routine conducting of breathing Analysis Test on 31.08.2015 it was noticed that the petitioner consumed alcohol and the machine recorded consumption of alcohol in the ratio of 8mg/100ml. Having noticed consumption of alcohol, disciplinary proceedings are initiated against the petitioner and simultaneously by the order impugned in the writ petition the petitioner was placed under suspension. Challenging the order of suspension, this writ petition is filed.

2. Learned counsel for the petitioner contends that the alleged incident occurred on 31.08.2015 where as the petitioner was allowed to discharge his duties after that date also and charge memo was also issued and enquiry is in progress. During the enquiry, statements recorded by some of the witnesses support the stand of the petitioner. Learned counsel further contends that the petitioner is not in the habit of consuming alcohol and the allegation that he was found to have consumed alcohol was not correct and that he is in the habit of smoking and just before the test was conducted, he did smoke cigarette. Therefore, it may be the reason, the analysis was not correctly assessed and wrongly recorded the finding as consumption of alcohol.

3. These are the matters which require consideration during the course of enquiry by the competent authority.

4. According to learned Standing counsel for APSRTC, after the issue was noticed, with effect from 03.09.2015, the petitioner was not assigned the duties as driver and that since proceedings are already initiated and enquiry is in progress, at this stage setting aside the suspension order is not warranted.

5. As seen from the material on record in a routine check of consumption of alcohol by the drivers on duties, the petitioner was found in consuming alcohol and

treating the same as serious misconduct, proceedings are initiated. The order of suspension also delineates the reason for resorting to suspension of the petitioner from service. The order is passed by the competent authority by duly assigning reasons and it is not a case of, arbitrary exercise of power by the competent authority or an incompetent authority passing orders of suspension from service. The Court cannot go into the merits of the allegations leveled, more so, when enquiry is pending. Thus, I do not see any illegality in the suspension order warranting interference by this Court, and the petitioner deserves no consideration.

6. Accordingly, the Writ Petition is dismissed. However, it is open to the petitioner to challenge the order of suspension by way of appeal before the appellate authority. It is needless to observe that since major portion of the enquiry is already completed, the disciplinary authority is directed to conclude the enquiry as expeditiously as possible preferably within a period of three (3) weeks from the date of receipt of copy of this order after giving due opportunity to the petitioner, and pass final orders in consequent to the charge memo dated 05.09.2015. There shall be no order as to costs.

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

P.NAVEEN RAO,J

03rd November, 2015

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

B/o.

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