

**HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO**

WRIT APPEAL No. 178 OF 2015

JUDGMENT: (per the Hon'ble Sri Justice A. Ramalingeswara Rao)

This writ appeal is directed against the order dated 07-10-2014 passed in Writ Petition No. 20986 of 2014 filed by the respondent herein challenging his suspension order dated 04-07-2014.

In the affidavit filed in support of the writ petition, the respondent stated that he was appointed as a Casual Driver in the Andhra Pradesh State Road Transport Corporation in the year 2003 and that his services were regularised in the year 2007. It is his case that on 30-04-2014 while he was conducting service on Garuda Plus bus bearing No. AP 29 Z 2409, on the route Hyderabad to Shirdi and when the bus reached near Allipur Cross Roads, Zaheerabad at about 22.50 hours, one auto with full passengers came in front of the bus and to avoid fatal accident and save the lives of the passengers, he took bus to right side and as one lorry came in opposite direction with full and heavy focus light, he could not see the divider on the right side and hit the same, as a result of which the bus was damaged causing loss to a tune of Rs.25,00,000/-. In view of the said accident, enquiry was initiated against him and he was issued an order of suspension vide proceedings dated 04-07-2014. Challenging the same, the respondent filed the above writ petition. No counter affidavit was filed by the appellants here before the learned single Judge. The learned single Judge without going into the merits of the case held that pending disposal of the appeal, suspension of the respondent was not warranted and accordingly set aside the order of suspension. The appellants were directed to admit the respondent to discharge his

duties within a period of 15 days from the date of receipt of a copy of the order. The appellants were further directed to complete the enquiry within a period of three months from the date of receipt of a copy of the order. Challenging the said order, the appellants filed the present appeal.

Learned counsel for the appellants relied on the judgments of the Supreme Court in *V.P. Gidroniya v. the State of Madhya Pradesh*^[1] and *State of Orissa v. Bimal Kumar Mohanty*^[2] and contended that the order of suspension cannot be interfered by the Courts as suspension is not a punishment but is only one of forbidding or disabling an employee to discharge the duties of office or post held by him, pending disciplinary proceedings.

Learned counsel for the respondent, on the other hand, submitted that though the suspension order was passed eight months back, no steps were taken by the appellants for completing the enquiry and in the circumstances, the order of suspension should be revoked.

Learned counsel for the appellants submitted that the respondent is not cooperating with the appellants in the enquiry, but however the appellants are willing to pay subsistence allowance during the period of suspension and that they would complete the enquiry within three months, provided the respondent cooperates with the appellants. Learned counsel for the respondent fairly submitted that the respondent would cooperate with the appellants in the enquiry proceedings.

In view of the submissions of the learned counsel for the appellants and the learned counsel for the respondent, the impugned order passed by the learned single Judge is set aside and the appellants are directed to hold de novo enquiry and complete the same within a period of three months from today and pay subsistence allowance to the respondent till the completion of enquiry. The respondent shall cooperate with the appellants in the enquiry proceedings. If the respondent does not cooperate with the appellants

in the enquiry proceedings, it is open to the appellants to proceed with the enquiry after giving due opportunity to the respondent.

The writ appeal is accordingly allowed to the extent indicated above.

Miscellaneous petitions, if any, also stand disposed of. There shall be no order as to costs.

DILIP B. BHOSALE, J

A. RAMALINGESWARA RAO, J

04-03-2015
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[\[1\]](#) 1970 (1) SCC 362

[\[2\]](#) (1994) 4 SCC 126