

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**W.P.No.40114 of 2014**

**ORDER:**

The petitioner herein challenges the order passed on 06-12-2014 by the Depot Manager, Nuzvid Bus Depot of the Andhra Pradesh State Road Transport Corporation (for short 'the Corporation'), reverting him to the post of Conductor duly protecting his service benefits in the cadre of Conductor. Earlier, the petitioner has been promoted as a Junior Assistant on 21-01-2014. The charge laid against the petitioner reads as under:

“For having failed to attend the day to day works like dealing in settlement cases, reminder letters to DMs of ATNR/VJA for relieving of drivers, filling up pms data blanks, regularization of contract drivers in P.Cases and filing of nominations in P.Cases which constitutes misconduct in terms of Reg.28(x)(vi) of APSRTC employees (Conduct) Reg.1963.”

On that, an inquiry was conducted. The petitioner gave his statement before the Inquiry Officer initially, but however, on 23-08-2014, he seems to have appeared before the Inquiry Officer and gave a representation for a change of the Inquiry Officer. Unfortunately for the petitioner, he addressed the said representation to the Inquiry Officer himself. In those circumstances, the Inquiry Officer has indicated that if the petitioner is desirous of securing any change in Inquiry Officer, he must address the representation to the Regional Manager concerned. The petitioner, according to the impugned order, has not submitted any such representation, but left the office, where the Inquiry Proceedings are being conducted. It goes without saying that an Inquiry Officer cannot pass an order asking for a change in the Inquiry Officer, as desired by a delinquent employee. It is only the competent authority to appoint an Inquiry Officer, who can pass any such order. I, therefore,

do not find, as at present advised, anything improper in the Inquiry Officer proceeding further in the matter. Proceedings took place on 23-09-2014, where the statement of the Deputy Superintendent (P), has been recorded, but the writ petitioner refused to sign the same. Based upon the Inquiry Officer's findings that the petitioner is not able to discharge the functions as a Junior Assistant, the impugned order of reversion has been passed duly protecting his service benefits as a Conductor.

On the previous occasion, learned counsel for the petitioner has asserted that the petitioner has been selected under the direct recruitment quota as a Junior Assistant while he was working as a Conductor of the Corporation. Since, it is a fundamental principle of law that persons, who have been directly recruited, cannot be reverted to a lower post, inasmuch as the in-service employees also contest for the selection along with the other suitable candidates drawn from the open market, he cannot be reverted to his former post. However, in the counter-affidavit, in para-3 in particular, it was asserted that the petitioner, upon selection, has been promoted as a Junior Assistant. The process of selection has been undertaken as the in-service employees are drawn from different streams, such as Conductors, Booking Clerks, etc. In that view of the matter, the selection process is conducted for the purpose of evaluating the merit of the candidates by a common yardstick and it does not amount to direct recruitment.

Now, I am not impressed by any such objection. When factual controversies are raked up, it is only appropriate that all such factual controversies must be got redressed, at the first instance, through the Appellate and the Review Authorities, who are, normally, superior authorities than the Disciplinary Authority. The Appellate and the Review Authority would be alive to practices that are normally adopted by the employees at the workplace and the same will be borne in mind while dealing with the factual controversies raked up. I am, therefore, of the opinion that it is not a fit case where the discretion of the Court

should be exercised in admitting the writ petition and on the other hand, the petitioner should be allowed to avail the Appellate and the Review remedy available under the Regulations, so that all factual controversies will be set at rest by such agencies, at the first instance.

Hence, this writ petition is dismissed at the admission stage, but however, without costs.

Consequently, the miscellaneous petitions, if any, stand dismissed.

Liberty is always preserved to the petitioner to approach the Appellate or the Reviewing Authority and in case, the time stipulated, if any, is already over in that regard, if the petitioner approaches the competent authority within 15 days from today, the same will be dealt with on its merits instead of rejecting it only on the ground that it was submitted beyond the time limit prescribed under the Regulations. No part of this order shall be treated or construed as a reflection on merits of the claim of the petitioner herein.

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**NOOTY RAMAMOHANA  
RAO, J.**

mrk  
27.01.2015.