

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
WRIT PETITION No.1652 OF 2015

ORDER:

The petitioner herein was proceeded against as a measure of discipline by the Depot Manager, Andhra Pradesh State Road Transport Corporation, Bus Depot, Tandur for the charge of unauthorized absence from duty from 14.11.2010 to 23.11.2010 without any intimation or prior sanction of leave. Hence, the services of the petitioner have been removed by the Depot Manager, by his proceedings, dated 25.01.2011, after agreeing with the findings of the Enquiry Officer.

As an appeal would lie against the said punishment order, the petitioner has preferred an appeal to the Regional Manager, Ranga Reddy District on 19.05.2011. The appellate authority has taken a compassionate view of the matter and passed orders on 07.06.2011 modifying the punishment of removal from service to that of punishment of postponement of his annual increments for the next two years with cumulative effect and reinstated the petitioner into service. The appellate authority has also ordered that the period from the date of removal from duty till he reports for duty upon reinstatement shall be treated as 'not on duty' for all purposes. In paragraph No.4 thereof, it was observed by the appellate authority as under:

"He shall report to the Depot Manager, Tandur Depot within
(7) seven days from the date of receipt of this order, failing which
the proceedings are deemed to have been cancelled."

This order dated 07.06.2011 appears to have been dispatched to the writ petitioner's address by registered post with acknowledgement due and as the petitioner has not claimed the same, it was returned undelivered. Thereafterwards, when the petitioner has made an attempt, as alleged, to report to duty before the Depot Manager, Tandur, since the seven-day period provided for doing so by the appellate authority

has elapsed, the Depot Manager has declined to receive his application for reporting to duty. Interestingly, the petitioner appears to have filed a review petition on 18.05.2013 before the Regional Manager, Ranga Reddy District. By his order dated 20.07.2013, the Regional Manager declined to accept the view point of the petitioner and held that there is no valid reason to interfere, after a lapse of one year eleven months of the order passed by the appellate authority and hence, rejected the review petition. It is in this backdrop, the present writ petition came to be instituted on 30.01.2015 in this Court.

Sri V.Narasimha Goud, learned counsel for the petitioner would urge that the petitioner has been proceeded against as a measure of discipline by the Depot Manager and hence, the appellate authority has assessed as to the gravity of the situation and rightly ordered reinstatement of the petitioner back to duty and imposed on him a lesser punishment of stoppage of two annual increments with cumulative effect, which would have adequately met the quantum of guilt held established against the petitioner. Therefore, the very order of removal from service is found to be illegal, but for the order of removal imposed, the petitioner would not have gone out of employment altogether. This apart, the appellate authority has already protected the interests of the Corporation by ordering the intervening period between the date of removal till the petitioner reports to duty to be treated as not on duty for all purposes whatsoever. Hence, contends the learned counsel for the petitioner Sri V.Narasimha Goud the interest of the Corporation is not going to be adversely effected by directing the petitioner to report duty even at this time. The petitioner, having received an appropriate treatment at the hands of the appellate authority, has been unjustly denied the same by the other authorities of the Corporation. Therefore, he urges that the necessary compassion

should be extended to the case of the petitioner.

As it is, the allegation against the petitioner which led to the order of punishment of removal is “unauthorized absence” from duty and he preferred an appeal to the appellate authority on 19.05.2011. The appellate authority has considered his case in less than a month’s time thereafter and passed an order in his favour on 07.06.2011. The petitioner, far from utilizing the opportunity provided by the appellate authority, has not moved in the matter. The copy of the order of the appellate authority sent to him by registered post with acknowledgement due has been returned by the postal authorities as it is not claimed by the petitioner. Therefore, the Corporation is not to be blamed in that regard.

Now, I want to test the *bona fides* of the writ petitioner. There is no explanation offered by the petitioner as to why he waited till 18.05.2013 to file a review petition before the appellate authority. The appellate authority, therefore, declined to re-consider the order dated 07.06.2011 and rejected his review application dated 18.05.2013 clearly pointing out that after lapse of 1 year 11 months, there is no justification for him to reconsider the issue. Again more than 1 ½ years’ time has elapsed after this order has also been passed by the appellate authority on 20.07.2013, for the petitioner to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

All through, the conduct of the petitioner is nothing but lax. Since the petitioner is not interested in asserting his rights and has not taken any steps to serve the master loyally, I cannot find fault with the follow-up action that was initiated post 15.06.2011 period. If the contention of the learned counsel is to be accepted, it is the indiscipline on the part of the petitioner in not taking his employment with the APSRTC as little

bit seriously, that would get rewarded. I, therefore, do not find any justifiable reason to entertain this writ petition and accordingly it is dismissed at the admission stage after hearing Sri N.Vasudeva Reddy, learned standing Counsel for APSRTC. No order as to costs.

All the miscellaneous petitions pending in this writ petition shall stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

02.02.2015

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