

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.2718 of 2009

Dated 21.07.2015

Between:

P.Bala Sunder Rao

... Petitioner

and

1.Andhra Pradesh State Road Transport
Corporation, rep. by its Vice-Chairman
cum Managing Director, Hyderabad and another

...Respondents

Counsel for the petitioner: Mr.G.Venkata Reddy

**Counsel for the respondents: Mr.Aravala Rama Rao, SC for
APSRTC**

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to declare proceeding No.P2/1/(197)/2008 ATK(K), dated 03-02-2009, of respondent No.2, as illegal and arbitrary.

A perusal of the impugned proceeding shows that the same is in the nature of a show cause notice. It is the pleaded case of the petitioner that

the impugned show cause notice was not preceded by regular enquiry. In Paragraph 5 of the affidavit, the petitioner has stated that neither any information nor a notice of the alleged enquiry was given to him.

In the counter-affidavit, filed by the Law Officer of the Andhra Pradesh State Road Transport Corporation (APSRTC), Musheerabad, it is *inter alia* stated that after the petitioner has submitted his explanation, on 21-10-2008, to charge sheet, dated 10-10-2008, enquiry was entrusted to the Deputy Superintendent (P), Office of the Depot Manager, Atmakur; that the Enquiry Officer has called the petitioner to attend the enquiry and that the petitioner has, accordingly, attended the enquiry without raising any objection for not entrusting the case to a regular Enquiry Officer. The further statement contained in Para 7 of the counter-affidavit, which is significant in this regard, reads as under:

“If the petitioner has objected, the case could have been entrusted to some other regular Enquiry Officer.”

Even though specific averment was raised by the petitioner in his affidavit that neither he had the knowledge nor he was issued any notice of regular

enquiry, the counter-affidavit is silent as to on what date notice was issued to him and when the enquiry was conducted. The very statement contained in the counter-affidavit as reproduced above would show that the enquiry stated to have been held was not a regular enquiry. In the absence of a regular enquiry after notice to the petitioner, the proposal for his removal from service cannot be sustained. Removal of an employee from service is a serious penalty having far-reaching effect on him and such an action cannot be permitted to be taken in a casual manner without holding a regular enquiry. Therefore, the impugned show cause notice cannot be sustained in law.

In the light of the above findings, this Court would have given liberty to the respondents to hold a regular enquiry. However, it is submitted by the learned Counsel for the petitioner and not disputed by Sri Aravala Rama Rao, learned Standing Counsel for APSRTC (AP), that the petitioner has already retired from service.

Considering the nature of the allegations *viz.*, insubordination and improper discharge of duties, I am of the opinion that it is not a fit case to permit

the respondents to hold an enquiry after retirement of the petitioner. For the above-mentioned reasons, the impugned show cause notice is quashed with the direction to the respondents not to proceed with fresh enquiry on the same charge against the petitioner.

The Writ Petition is allowed accordingly.

As a sequel, WPMP.No.3493 of 2009, filed by the petitioner for interim relief, is disposed of.

(C.V.Nagarjuna Reddy, J)

Dt: 21st July, 2015
LUR