

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

**WEDNESDAY, THE TWENTY FIFTH DAY OF NOVEMBER TWO THOUSAND
AND FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.38184 of 2015

Between:

Tirumalaiah, aged about 55 years, ADC (oils)
E.108509, APSRTC, Alipiri Depot, Alipiri,
Chittoor District.

.. Petitioner

AND

1. Andhra Pradesh State Road Transport Corporation
Rep.by its Vice Chairman-cum-Managing Director
Musheerabad, Hyderabad.

2. The Depot Manager, APSRTC, Alipiri Depot,
Alipiri, Chittoor District.

.. Respondents

The Court made the following:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.38184 of 2015

ORDER:

Petitioner is working as Assistant Depot Clerk (oils). On 05.09.2015 the petitioner was assigned duty at oil bunk from 16:00 to 0:00 hours. On the said date, the petitioner seems to have attended duty at 10.00 pm instead of 4:00 pm and he was found to be in a drunken condition at 01:00 hours i.e., early morning of 06.09.2015. The petitioner was subjected to breath analyser test and was found to be in an intoxication condition due to consumption of alcohol. In connection there with, disciplinary action was initiated against him on 11.09.2015. He was placed under suspension on the allegation of attending to duty late and being in drunken condition while on duty. On the same day, charge sheet was issued levelling three allegations. The petitioner submitted his explanation.

2. Petitioner challenges the order of suspension on the ground that even according to the Analyst's statement, he was found to be in drunken condition at 01:00 hours on 06.09.2015, whereas his duty was over by 0:00 hours and therefore, after duty hours, whatever may be the status of the petitioner is immaterial to take action against him. Learned counsel submits that there is no justification for placing the petitioner under suspension from service. Placing reliance on Regulation 18 of the A.P.S.R.T.C. Employees (Classification, Control and Appeal) Regulations he contends that suspension from service can be restored to, only in case of grave charges, but not on the allegation with which the petitioner is charged.

3. Whether the petitioner has sufficient explanation for coming late to the duty and whether breath analyser test proved that he was found to be in drunken condition and whether such condition was after the duty hours are all matters which require consideration during the course of enquiry. Therefore, no opinion can be expressed at this stage.

4. To place an employee under suspension, what is required for the disciplinary authority is to find out *prima facie* case of misconduct. It is not a case where the

disciplinary authority has acted contrary to record and without any basis. His decision to suspend the petitioner is based on the report furnished to him including the report of the Analyst, which *prima facie* shows consumption of alcohol. Therefore, it cannot be said that there was no application of mind by the disciplinary authority. Attending to duty by consuming alcohol if proved would be a grave misconduct and therefore, it cannot be said that Regulation 18 is not attracted to the case of the petitioner.

5. Hence, I do not see any merit in the claim made and the Writ Petition deserves no consideration and accordingly it is dismissed. However, dismissal of the Writ Petition cannot take affect away the defence of the petitioner during the course of enquiry. The observations, made hereinabove are only for the purpose of disposal of the writ petition in considering the validity of the order suspension and cannot be treated as recording of finding on merits. It is hoped and expected that the disciplinary authority shall complete the enquiry, as expeditiously as possible, preferably within a period of six (6) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

P.NAVEEN RAO, J

NOVEMBER 25, 2015

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THE HON’BLE SRI JUSTICE P.NAVEEN RAO

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Dt: 25.11.2015

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