

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-

WRIT PETITION No.19684 of 2016

ORDER:

The petitioner joined the service of the respondent Corporation as Conductor in the year 1997 after undergoing the process of selection. His services were regularized with effect from 01.08.1998. While so, proceedings were issued on 02.05.2016 framing the following charges against him.

“CHARGE:1 “For having failed to operate the service upto Kukatpally in 2nd trip to Kukatpally you have closed the STAR upto Kukatpally but you have operated the bus upto Lingampally only. On scrutiny of TIM report it is detected that the bus has reached Lingampally from Kukatpally approximately in 4 minutes, which is not possible to reach the bus from Kukatpally to Lingampally within 4 minutes, which is a misconduct on your part under Reg.28(ix-a) of APSRTC Employees (Conduct) Regulations, 1963”.

Charge:2 “For having showed the non performed KMs as performed KMs (i.e., from Lingampally to Kukatpally and back) in STAR DOCUMENT which may results payment of Hire Charges to the Hire Bus for non performed KMs and you have violated the instructions of your traffic supervisor, which constitutes mis-conduct in terms of Reg.28(xxxii) of APSRTC Employees (Conduct) Reg.1963”.

Initially a charge memo was issued on 07.04.2016 for the incident that took place on 27.03.2016 and the petitioner submitted his explanation on 12.04.2016. Thereafter, a preliminary enquiry was conducted and on the basis of the same, the impugned order of suspension was passed on 02.05.2016, challenging which the present Writ Petition is filed.

This Court carefully perused the charges leveled against the petitioner and the charges leveled relate to the incident that took place on 27.03.2016. The charges are trivial in nature and could be enquired into on the basis of the records and the oral evidence of the parties.

There is no likelihood of influencing the witnesses. Normally, this Court will not interfere with the orders of suspension, but the power of suspension has to be exercised in proper cases and not on whims and fancies of the officers. In every case of allegation there may be a violation of conduct regulation. But, all violations do not invite suspension from service. If an employee is suspended from service, apart from humiliating the employee, the employer will be burdened with payment of subsistence allowance during the period of suspension, even though the employee does not render any service. The employer should take all these aspects into consideration before invoking the power of suspension. This Court feels that in the instant case the said discretion was not exercised.

In the circumstances, the impugned order of suspension is set aside, but however, liberty is given to the respondents to continue the proceedings against the petitioner in respect of the alleged incident and on the charges framed against the petitioner, and take appropriate action in accordance with law. In view of setting aside the order of suspension, needless to observe that the respondents shall reinstate the petitioner forthwith.

The Writ Petition is, accordingly, allowed to the extent indicated above. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

21.06.2016
vs