

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.5292 of 2016

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the final recovery order issued by the Depot Manager, GVPT-I Depot, Vijayawada vide proceedings No.M1/200(14)/15-GVPT-1, dated 21-01-2016.

Heard, Sri C. Rajashekar Reddy, learned counsel for the petitioner and Sri A. Rama Rao, learned Standing Counsel for the respondents' corporation, apart from perusing the material available before this Court.

The Depot Manager/1st respondent herein issued a charge sheet bearing No.M1/200(14)/15-GVPT-1, dated 10-07-2015 and asked the petitioner herein to submit his explanation. The charges framed against the petitioner read as under:

"For having failed to verify the Physical Stocks regularly and not maintained the Oil Section records properly with negligent manner causing shortage of 1284 Lts. Lubricants worth of Rs.1,74,624/- @ Rs.136/- at GVPT-I depot Oil Section and your share of 50% on the value of the Total Shortage, while you were working as DC (Oils) during the period from 18-01-2013 to 09-03-2013 which is irregular and which constitutes misconduct under Reg. (x)(a) & (xix) of APSRTC Employees' (conduct Reg.1963)."

In response to the said charge sheet, the petitioner herein submitted an explanation, dated 03-08-2015. Thereafter, after submission of enquiry report the Depot Manager issued show cause notice bearing No.M1/200(14)/ 15-GVPT-1, dated 27-10-

2015. Responding to the same, on 18-01-2016, the petitioner herein submitted an explanation.

The material available on record further discloses that the petitioner herein thereafter filed an appeal before the Deputy Chief Mechanical Engineer, APSRTC, Krishna Region, Vijayawada – 3rd respondent herein against the orders passed by the Depot Manager.

According to the learned counsel for the petitioner, the orders passed by the Depot Manager are erroneous, illegal and highly arbitrary. It is the further submission of learned counsel for the petitioner that without considering the contents of the explanation submitted by the petitioner herein the Depot Manager passed the impugned order of recovery.

On the contrary, it is submitted by Sri A. Rama Rao, learned Standing Counsel for respondents that having filed appeal before the 3rd respondent herein on 08-02-2016, it is not open for the petitioner herein to approach this Court by way of filing the present writ petition under Article 226 of the Constitution of India.

Admittedly, the petitioner herein filed appeal on 08-02-2016 before the 3rd respondent herein against the orders impugned in the present writ petition. As per the learned counsel the said appeal is still pending consideration before respondents and no orders have been passed on the said appeal.

In view of the same and having regard to the nature of controversy, this Court deems it appropriate to direct the 3rd respondent/appellate authority to pass appropriate orders on the appeal, dated 08-02-2016 preferred by the petitioner herein by

fixing some timeframe.

For the aforesaid reasons, the writ petition is disposed of, directing the 3rd respondent to pass appropriate orders on the appeal, dated 08-02-2016 preferred by the petitioner herein against the final order of recovery passed by the 1st respondent vide proceedings No.M1/200(14)/15-GVPT-1, dated 21-01-2016, in accordance with law, within a period of six (6) weeks from the date of receipt of a copy of this order and pending such exercise, no further recovery shall be made pursuant to the final recovery order, dated 21-01-2016 from the petitioner herein.

Miscellaneous Petitions pending, if any, shall stand closed.
There shall be no order as to costs.

A.V. SETHA SAI, J

February 18, 2016

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THE HON'BLE SRI JUSTICE A.V. SETHA SAI

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