

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.31026 of 2013

ORDER:

Heard Sri V.Narsimha Goud, counsel for the petitioner and Sri N.Vasudeva Reddy, Standing Counsel for respondents.

2. Petitioner had joined the services of APSRTC as Conductor on 16.06.1977 and he retired from service on 31.12.2012 as a Senior Assistant (Finance).

3. On 29.06.2011, petitioner was suspended on the ground that he was detained by police and is in police custody from 30.05.2011 to 09.06.2011 in Crime No.211 of 2011 dt.30.05.2011 under Section 304-B IPC, since his daughter-in-law committed suicide. Thereafter, a charge sheet dt.29.06.2011 was also issued to him stating that he was arrested by police of Armour on 31.05.2011 and remanded upto 09.06.2011 and later released on that date and this constituted a misconduct under regulation No.18(2) of APSRTC, CC & A Reg. 1967.

4. In S.C.No.106 of 2012 the II Additional District & Sessions Judge (FTC), Nizamabad by judgment dt.14.03.2013 acquitted the petitioner.

5. It is not in dispute that on 25.05.2012 a punishment of censure imposed on the petitioner and his suspension was revoked, subject to the out come of the criminal case and on 11.06.2013 an order was passed that the period of suspension of the petitioner would be treated as not on duty.

6. Though Standing Counsel for the respondents contended that the enquiry officer who conducted enquiry had submitted a report on 01.08.2011 stating that the petitioner was in police custody, but the said incident has nothing to do with his employment and it was a personal matter and therefore the punishment of censure ought not to have been imposed on him.

7. The fact remains that the petitioner had retired on 31.12.2012.

8. In my considered opinion, as per the CCA Regulation 18(2), an employee who is detained in custody, whether on a criminal charge or otherwise, for period exceeding forty eight hours shall be deemed to have been suspended with effect from the date of detention, by an order of the appointing authority, and shall remain under suspension until further orders. Therefore, the order placing the petitioner under suspension on 29.06.2011 cannot be found fault with.

9. However, since the offence alleged against the petitioner has nothing to do with his employment, he could not come within the scope of misconduct as enumerated in Reg.28 of the APSRTC Employees (Conduct) Regulations, 1963.

10. Therefore the very framing of a charge against the petitioner and imposing punishment of censure on the petitioner on 25.05.2012 cannot be sustained. Therefore, they are set aside. Since the very framing of the charge and conducting of enquiry against the petitioner is held to be not warranted, the

petitioner would be entitled to full wages between 29.06.2011 to 25.05.2012 after deducting the subsistence allowance which he had received during the said period.

11. Coming to the claim of annual grade increments raised by the petitioner due for the years 2011 and 2012 is concerned, Reg.11(3) of APSRTC (Pay and Allowances) Regulations, 1964 states that if an employee is suspended for misconduct, neither the period of suspension or any period of service preceding the date of suspension shall be allowed to count towards the period necessary to earn an increment.

12. But, I have already taken a view that being in police custody in connection with an offence which has nothing to do with the service of an employee though a ground for suspension, is not a misconduct. Therefore, sub-clause(3) of Reg.11 of APSRTC (Pay and Allowances) Regulations, 1964 has also no application and the petitioner would be entitled to the Annual Grade Increments which fall due for the years 2011 and 2012, if he is otherwise entitled to the same.

13. The Writ Petition is allowed as above. There shall be no order as to costs.

14. Consequently, miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

M.S.RAMACHANDRA RAO, J

18th November, 2016.
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