

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.6319 of 2011

Date: 23.08.2016

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Between:

P.Anjaiah, S/o Rama Krishna, Aged about 55 years,
R/o. 1-1-517/6, Indira Nagar Colony, Siuryapet,
Nalgonda District.

.....Petitioner

and

The A.P.S.R.T.C., rep.by its Regional Manager,
Nalgonda Region, Nalgonda, Nalgonda Dist., and
another.

.....Respondents

The Court made the following:

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ORDER:

Petitioner is a Conductor. Petitioner was assigned the duty on route from Suryapet
– Nereducharla – Miryalaguda, on 15.12.2007, on Bus bearing No.AP 10 Z 8453. Check

was exercised by the checking officials at stage No.7 i.e., Pongodu. Having noticed cash and ticket irregularities, disciplinary proceedings were initiated against the petitioner. Petitioner was served charge memo dated 15.12.2007 containing seven charges. Domestic enquiry was conducted. Enquiry Officer submitted his report holding charges proved. Based on the findings recorded by Enquiry Officer, disciplinary authority passed orders on 11.09.2008 imposing the punishment of deferment of annual increment for a period of 18 months with cumulative effect. The appeal preferred by the petitioner was rejected, affirming the punishment imposed. Aggrieved thereby, this writ petition is filed.

2. Heard Sri G.Ravi Mohan, learned counsel for petitioner and Sri A.Ravi Babu, learned standing counsel for the respondents.

3. Learned counsel for petitioner contends that order of disciplinary authority is liable to be set aside on the sole ground that it is not a speaking order. The quasi-judicial authority must assign reasons in support of his decision. On the report of the enquiry officer, when show cause notice was issued, petitioner submitted detailed explanation assigning due reasons against the findings recorded by the enquiry officer. It is mandatory for the disciplinary authority to consider the grounds urged against the report of the enquiry officer while passing orders, whereas the order of the disciplinary authority does not contain the reasons why explanation submitted by the petitioner was not acceptable. The appellate authority also did not assign reasons in support of his decision to affirm the punishment imposed.

3.2. In charge No.1, it is alleged that petitioner failed to collect fare and issue ticket to a passenger, who was traveling on the strength of student bus pass and having unconcerned identity card. Learned counsel submits that as the bus was overcrowded there was difficulty in effecting check on each passenger and in the rush petitioner accepted the statement of student as bonafide.

3.3. With reference to the second charge, learned counsel submits that the passenger has shown the ticket of Rs.6/- denomination, issued in the previous journey, but passenger subsequently stated that by mistake old ticket was shown and that he could trace the ticket issued to him for the present journey and though produced, the checking officers refused to accept the issuance of the ticket. For the lapse on the part of the passenger, petitioner cannot be penalized.

3.4. He would further submit, by referring to charges 3 to 7, that these charges flow out of the allegations made in charges 1 and 2. He would submit that though the enquiry officer observed in favour of the petitioner in the discussion against respective charges, he holds the charges as proved. He would therefore submit that the findings of the enquiry officer are contrary to the material on record.

3.5. He would further submit that even otherwise what is alleged against the petitioner would at the most amount to procedural infirmities of minor nature, there was no allegation of misappropriation of funds of the corporation. Corporation did not suffer any loss and thus, imposing such harsh punishment was wholly unwarranted. The punishment imposed has recurring effect throughout his career. Thus, on this ground also, the punishment is liable to be set aside. Learned counsel submits that even assuming that charges are established, having regard to nature of allegations, the punishment is excessive and petitioner ought to have been visited with less severe punishment.

3.6. It is submitted that in identical circumstances, this Court in **C.BASIAH Vs. DEPOT MANAGER, APSRTC, TANDUR,**

R.R. DISTRICT^[1] held that the gravity of allegations gets diluted to substantive extent on account of the defense of conductor that the bus was over crowded. Having regard to the same issue, this Court modified the punishment from removal to that of stoppage of two annual increments with cumulative effect. Following the said principle, in his case also, the main problem faced by the petitioner was that the bus was over crowded and thus, disciplinary authority ought to have imposed lesser punishment.

4.1. Sri Ravi Babu, submitted that reading of charge sheet would show that the allegations made against petitioner are grave. Petitioner not only indulged in not performing his duties properly in issuing tickets to passengers; in verifying the claim of a student regarding the validity of bus pass held by him, he had indulged in obstructing the Inspection Team from verifying the STAR. He had instigated passengers and local people against Checking Officials. These allegations are grave and all the allegations are proved. He would therefore submit that disciplinary authority was considerate in imposing less severe penalty and petitioner should have been happy with the same. He would submit that in the light of the findings recorded by the Enquiry Officer, disciplinary action is validly taken and it does not call for interference.

4.2. Learned standing counsel referring to the contention of the petitioner that the bus was over crowded and that there were more than 100 passengers, submitted that petitioner is taking advantage of formation of a wrong sentence in the enquiry report and stand of the petitioner is contrary to the material on record. According to learned standing counsel, STAR entries of the day would disclose that there were only 63 passengers altogether in the bus on the day and contention of the petitioner that the bus was over crowded with more than 100 passengers was not correct. He has placed on record, the photocopy of the STAR of the day and check sheet of the Traveling Ticket Inspector.

4.3. In support of his contention that the writ Court has limited jurisdiction in considering the matters arising disciplinary proceedings, he placed reliance on the decision of the

Supreme Court in **UNION OF INDIA AND OTHERS Vs. P.GUNASEKARAN**^[2].

5.1. On all 7 charges there was detailed discussion by the Enquiry Officer. The issue arose when sudden inspection was conducted on the bus by the Inspecting Team, where they have noticed cash and ticket irregularities by the petitioner. While the inspecting team were undertaking the job of inspection and verification of the records, recording of statements of passengers and preparing their reports, having realized that report by the Inspecting Team would have adverse consequences, he had instigated passengers and villagers to lodge protest and prevent the Inspecting Team from undertaking their job. The evidence on record and material considered by the Enquiry Officer would clearly point out to such provocative action by the petitioner.

5.2. It is useful to extract few of the observations of the Enquiry Officer:

“Further, it is also clear that though the delinquent had not directly argued with the TTIs, his words instigated the passengers and to involve in the matter and he had not tried to pacify the bus passengers. (under charge 3 page 9 of enquiry officer report).”

.....

“ In his written statement the jeep driver further stated that while the TTIs obtaining the statement of the passenger the conductor had informed the passengers that if the statement were obtained he will loose his job due to which the passengers and the students have entered into the bus and stopped the passenger who was writing his statement and also demanded to return the passengers statement and not to frame any case He also stated that the mob have rounded the bus and their jeep and not allowed them to move and after moving some distance again some persons came on a tractor to the jeep.” (under charge 4 page 10 of enquiry officer report).

6. Traveling Ticket Inspectors have submitted special report on the conduct of the conductor in instigating the passengers and local people.

7. The assessment of evidence on record and conclusions arrived by the Enquiry Officer do point out that the charges leveled against the petitioner are proved. Thus, it is not a case where the charges are not proved as sought to be contended by Sri Ravi Mohan. A cumulative reading of the charges as assessed by the Enquiry Officer clearly point out gravity of the allegations. It is not a case of perverse findings by the Enquiry Officer nor the decision of Disciplinary Authority suffers from any illegality. As rightly contended by the learned standing counsel, Disciplinary Authority has taken lenient view in imposing less severe penalty.

8. In the above analysis, there is no merit in the contentions urged by the learned counsel for petitioner. Petition deserves to be dismissed. It is accordingly, dismissed. No costs.

Miscellaneous petitions if any pending shall stand closed.

Date : 23.08.2016

JUSTICE P.NAVEEN RAO

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[\[1\]](#) 2008 (6) ALD 518
[\[2\]](#) (2015) 2 SCC 610