

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND**

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT APPEAL No. 241 OF 2016

J U D G M E N T: *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

This Writ Appeal preferred by the petitioner brings out the mechanical manner in which the Depot Managers of the Corporation, in spite of innumerable number of times that this Court and the Supreme Court have been holding that the power to place an employee under suspension should not be used lightly and mechanically, are still indulging in the same mechanical attitude. At the end of each year, very solemnly, the Corporation would announce that it has made adequate losses. There is no wonder that the public sector Road Transport Corporations are not able to make an iota of profit in spite of having enormous business turned around running to few crores of rupees.

The writ petitioner was a conductor. She was conducting a bus bearing No. AP 11Z 5336 from Yanam of Pondichery State to Ramachandrapuram in East Godavari of Andhra Pradesh. The bus was checked by the Traveling Ticket Inspectors (TTIs) at stage No.6, Injaram Village. It is the case of the appellant-petitioner conductor that these TTIs. allowed the onward journey of the bus up to Ramachandrapuram, which is only at a short distance away from Injaram Village and kept checking the tickets of all the passengers. According to the appellant-petitioner, at the time when she has gone to the Depot Clerk for remitting the cash earnings of the service, the TTIs. have informed that two passengers, who have travelled from Yanam to Injaram, have alighted from this bus at Injaram and that when they have inquired from them, they have shown a 'break-down ticket' said to have been issued by the petitioner-appellant instead of the regular tickets, which the passengers are supposed to be issued by the conductor. Those two lady passengers appear to have also stated that

they paid the fare of Rs.6/- each to the conductor. Suspecting that the appellant-petitioner has attempted to indulge in mis-appropriation of this fare amount of Rs.12/-, which was collected from those two lady passengers, a cash and ticket irregularity allegation has been thrown against her. The appellant-petitioner has protested about the whole act carried out by the TTIs. She has, ultimately, stated that what has been alleged against her is not at all correct. She made the following statement in Telugu . When translated into English, it means '*this is not true and correct*'. The TTIs. have struck-off this statement of the writ petitioner but they passed the following remark thereon . When translated, it means "*why is it not true and correct?*". This very remark made by the TTIs. is more in the nature of an answer to the remark made by the conductor, the appellant-petitioner. When they struck-off the remark of the conductor, it should have occurred to the TTIs. that they cannot make a remark, which is an answer to the remark of the conductor. They allowed that remark of theirs to stay on record. It pre-supposes the remark of the conductor made on the report submitted by the TTIs. that they have not been truthful in preparing the report against the conductor and that they have routinely done that. This apart, it is the case of the TTIs. that they have seen two lady passengers alighting from the bus at Injaram cross roads. The bus has proceeded thereafter on onward journey. The TTIs. said to have interacted with those two lady passengers. They also recorded that the two passengers have not given their statement on the ground that they have some other important work and hence, they went away without giving the statement to the TTIs. It is also the case of the TTIs. that those two lady passengers have left with the TTIs. a 'break-down ticket' said to have been issued by the appellant.

Now the whole question hinges upon the factum as to whether the appellant-petitioner has issued the 'break-down ticket' to those two

passengers after collecting fare of Rs.6/- from each of them or not. Such a fact cannot be vouchsafed by a third party. It is one thing to say that the passengers made a statement to the TTIs. and the TTIs. record that statement and then bring that recorded statement during the course of domestic inquiry. In such circumstances, perhaps, there may not be any necessity for examining such a passenger during the domestic inquiry, but here is a case where, on their own showing, the TTIs. have stated that the passengers have not made any statement. The TTIs. have got into the bus subsequent to the point where the two lady passengers said to have alighted from the bus.

Sri S.V. Ramana, learned Standing Counsel for the Corporation would submit that the jeep, in which the TTIs. were traveling, in the meantime, caught up with the bus and the driver of the jeep signalled the RTC bus conducted by the appellant-petitioner to stop and that is how the bus was stopped to enable the TTIs. to get into it. This probablizes the fact that the two passengers could not have made any statement to the TTIs., because the time, in case a statement is made by the passengers, would not have been sufficient enough for the TTIs. to catch up with the bus later on.

When a conductor has been stoutly disputing the facts alleged against her and, from the very beginning, she has been protesting against the manner in which the TTIs. tried to implicate her, the Depot Manager ought not to have mechanically resorted to the power available to him to place the conductor under suspension. The allegation that the appellant-petitioner has indulged in cash and ticket irregularities could be possibly a grave one, but looking at the whole of the circumstances and facts narrated by us now, much can be said on both sides. The allegation may or may not stick. Possibly, examination of any other passenger in the bus would have become an ideal solution in a situation like the present one, where there are contradictory statements made by each other.

Sri S.V. Ramana, learned Standing Counsel would try to justify the suspension of the appellant-petitioner on the ground that discipline requires in an industry like that of the RTC and hence, placing the employee under suspension should not be lightly interdicted by this Court. Discipline is certainly required to be exhibited by every employee in every organization, not necessarily in Road Transport Corporation alone. But at the same time, the power available to the competent authority to place an employee under suspension should not also be resorted to mechanically or routinely or with a view to convey the displeasure of the competent authority. Suspension pending inquiry is intended to facilitate smooth collection of facts against the employee concerned. If an employee is placed under suspension, those, who might otherwise hesitate to speak, may willingly and readily come forward and speak against the employee. This apart, there would not be any chance for the employee to gain access to the office records and the record can safely and easily be preserved, so that the same can be exhibited before the domestic tribunal. It will not get tampered in the meantime. But when the employee herself has protested, denied and disputed, at the very first instance, that the facts have not been correctly recorded in the report filed by the TTIs., it called for serious application of mind on the part of the competent authority, namely the Depot Manager in this case before the impugned order of suspension is passed.

When once an employee is suspended from public employment, the Employees' (Classification, Discipline and Appeal) Regulations dealing with the conditions of service of such an employee, in the instant case, Regulation 18, require payment of subsistence allowance, which would be not less than 50% of the wages for the first period of three months. That means, without extracting any work whatsoever from the employee and making the employee to stay away from the work place, 50% of the salary and

allowances have got to be paid. Placing an employee under suspension would also necessarily lead to shortage of manpower, when required. A substitute has got to be found to shoulder the responsibilities, which the appellant-petitioner was undertaking till then. At the end, if the allegations are held as not established, the balance 50% of salary and allowances also will have to be paid. This would certainly leave an impact on the fragile financial resources of the Corporation. This is one area of leakage of the financial resources of the Corporation and in spite of repeatedly this Court and the Supreme Court pointing out the futility of mechanical exercise of this nature from being indulged in, which causes a financial strain to the Corporation, the Corporation does not make any attempt whatsoever to change its mindset. The Depot Managers continue to be trigger happy. For the slightest of a misconduct on the part of the low-paid employees, suspension pending inquiries is resorted to.

In contrast, neither the Depot Manager nor the Regional Manager nor anyone up above him right up to the Managing Director of the Corporation have bestowed any attention with regard to the dubious role played by the TTIs. The manner in which the two TTIs. have conducted this particular case leaves much to be desired about their conduct. When we debated with Sri S.V. Ramana, all that the learned Standing Counsel, upon instructions, would submit is that so far as the TTIs' conduct is concerned, if this Court wants the Corporation to conduct an inquiry, it would certainly conduct an inquiry. He hesitates to say that those two TTIs. will be placed under suspension, thus conveying that there are two different standards available with the Corporation and its higher officials; one for lowly-placed employees like that of the conductors and drivers and another for those who are up above such lowly-placed employees. This does not add any credit to the human resources management principles adopted by the Corporation. Therefore, we leave it to the Regional

Manager, in the instant case, to exercise his discretion, on his own, without expecting anything either from the appellant-petitioner or from those TTIs. to either reinstate the appellant-petitioner back to duty immediately and then proceed with the inquiry or place those two TTIs. also under suspension and proceed against them independently by ensuring that the statement of the appellant-petitioner is also recorded in such an inquiry along with that of the driver of the bus and possibly any other passenger, who traveled in that bus, so that the whole of the truth can come out. Let this exercise be carried out within two weeks and a compliance report be placed before the Registrar (Judicial) of this Court through Sri S.V. Ramana, learned Standing Counsel within two weeks from today.

We grant permission to the learned Standing Counsel to bring this order to the notice of the Regional Manager concerned immediately.

With this, the Writ Petition stands disposed of. No costs.

Consequently, the miscellaneous applications, if any shall stand disposed of.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

13th April 2016

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