

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

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

WRIT APPEAL No. 31 OF 2016

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

This Writ Appeal is directed against the order dated 17.11.2015 passed by the learned Single Judge in Writ Petition No. 8326 of 2012 instituted by the appellant. The learned Judge has noticed that the writ petitioner-appellant was engaged, on contract basis, as driver with the Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation'). He was attached to Ravulapalem Bus Depot in East Godavari District. While so, according to the Corporation, an order has been passed on 06.10.2008 by the said Depot Manager directing the two individuals therein, one of them being the writ petitioner-appellant, to report before the Deputy Chief Personnel Manager, Hyderabad City Zone of the Corporation at Hyderabad to work there on relieving duty basis. The muster marked up to 06.10.2008 was also enclosed to the said communication. This communication is based upon a letter said to have been received by the Depot Manager from the Regional Manager's Office at Rajahmundry of the Corporation on 29.09.2008.

The case of the Corporation is that though the writ petitioner-appellant was relieved of his duties at Ravulapalem Bus Depot on 06.10.2008, he has not reported to duty either before the Deputy Chief Personnel Manager, Hyderabad City Zone of the Corporation or back at Ravulapalem Depot. Consequently, it is the case of the respondent Corporation that the Regional Manager of the Corporation at Rajahmundry, through a communication dated 27.01.2009, issued a show cause notice to the writ petitioner-appellant calling upon him to explain the reasons why he has stayed away from duty ever since 06.10.2008 and did not report to duty and hence, why his name shall

not be deleted from the panel of selected candidates, within seven days. According to the learned counsel for the petitioner-appellant Sri S.M. Subhan, no such notice from the Office of the Regional Manager has been received by the writ petitioner-appellant and no such consequential proceeding either was passed terminating him from services of the Corporation or deleting the name of the writ petitioner-appellant from the list of selected candidates to function, to begin with, on contract basis, as driver, to be regularized depending upon the satisfactory services one would have rendered to the Corporation for a considerable period of time, say one year. It is, in those set of circumstances, according to the learned counsel for the appellant, the petitioner-appellant kept on making representations and he has also taken to the route of seeking information under the Right to Information Act. The fact remains that the Corporation has not terminated the services of the petitioner, but however, they are not also engaging him for employment any further.

The learned Single Judge, based on the averments contained in the counter-affidavit filed on behalf of the Corporation, has believed that the show cause notice dated 27.01.2009 has been received by the petitioner. Since Sri Subhan, even on the previous occasion, has reiterated that there was no such communication addressed to the writ petitioner-appellant and received by him, we directed the Corporation to make available the necessary record in that respect.

Today, the learned Standing Counsel for the Corporation

Sri S.V. Ramana has placed before us a photo copy of the proceedings bearing No. E6/255(14)/08-RM:RJY, dated 27.01.2009. This is the show cause notice, which the Regional Manager of the Corporation has issued on 27.01.2009. It appears, this communication has been sent by Registered Post acknowledgment due to the writ

petitioner-appellant at his residential address at Sanjeev Nagar, Gokavaram, East Godavari District. From the photocopy of the postal acknowledgment card, we could clearly make out that the said communication has been delivered at that address on 29.01.2009 and the signature on the acknowledgment card reflects that it was received by one Sri Ch. V. Rao. We are therefore, of the opinion that the averment made in the counter-affidavit that the show cause notice issued by the Regional Manager on 27.01.2009 was received by the petitioner, appears to be a tenable one.

The fact remains that the petitioner-appellant has been relieved of his duties as a contract driver by the Depot Manager, Ravulapalem on 06.10.2008. No attempt whatsoever has been made by the petitioner to demonstrate that either he has reported before the Deputy Chief Personnel Manager of the Corporation at Hyderabad or if he has never received any such order, back before the Depot Manager, Ravulapalem. For the first time, the petitioner appears to have drawn a representation on 18.06.2011. This itself reflects that for nearly three years after he was relieved on 06.10.2008 at Ravulapalem, the petitioner has raked up the issue only on 18.06.2011. This shows lack of seriousness on the part of the petitioner-appellant, if not his *bona fides* become suspect. We are therefore, not at all impressed in any manner that the view taken by the learned Single Judge is not a sustainable one. Accordingly, we do not find any merit in this Writ Appeal.

However, one aspect, which Sri Subhan appeals to us, deserves to be considered. Towards the end of the order, the learned Single Judge obviously noticing that the writ petitioner-appellant is still in prime age of being less than 35 years, directed the Corporation to consider engaging him in case he is otherwise suitable, but according

to Sri Subhan, such course entertained by this Court will not normally fructify and it remains illusory.

We are confident that if the petitioner approaches the Regional Manager of the Corporation at Rajahmundry and solicits to be re-engaged at least on contract basis as a driver and in case, there is requirement of engaging the drivers on contract basis by the Corporation in the region under the control of the Regional Manager, the Regional Manager may entertain any such request made, in writing, with a specific undertaking that he would faithfully report before any of the Depot Managers to whom he might be referred for engagement without any default. Let any such representation, which the petitioner-appellant might submit, be dealt with within a maximum period of 15 days from the date of its receipt by the Regional Manager.

It goes without saying that any such fresh engagement is subject to finding the writ petitioner-appellant fit for the category of job for which he is sought to be engaged.

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

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

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

02nd March 2016

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