

THE HONOURABLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION No.26102 of 2014

ORDER:

This writ petition is filed under Article 226 of the Constitution of India to declare the proceedings No.01/2(14)2009-KDR dated 29.12.2010 issued by the 4th respondent and the proceedings No.PA/19(102)/2011-Dy.CTM-A dated 24.05.2011 issued by 3rd respondent as illegal, arbitrary and in violation of principles of natural justice.

02. It is the case of the petitioner that while he was working as Driver in the 4th respondent Depot. He caused accident while performing duty on the route between Secunderabad and Kadiri, hit the culvert, situated between Alampur and Manapadu villages, at about 1.15 A.M., which resulted in causing grave injuries to two persons besides damage to the front portion of the vehicle. Thereupon, a Charge Memo dated 21.05.2010 was issued, calling for explanation and accordingly submitted his explanation, but without ordering regular departmental/domestic enquiry, the 4th respondent imposed penalty of stoppage of two annual grade increments with cumulative effect and to recover Rs.1,000/- per month towards damage caused to the bus.

03. Aggrieved by the order of penalty dated 29.12.2010, the petitioner preferred appeal before the Deputy Chief Traffic Manager, Anantapur District, and in turn the appeal was disposed of by order dated 24.05.2011, confirming the penalty order on the ground that it is barred by limitation.

04. Aggrieved by the order passed by the 4th respondent and confirmed by the 3rd respondent, the present writ petition is filed only on the ground that the penalty of stoppage of two annual grade increments with cumulative effect without conducting regular departmental enquiry

and it is violative of principles of natural justice.

05. Learned counsel for the petitioner reiterated the said contention, whereas the learned Standing Counsel for the respondents did not admit the imposition of penalty without enquiry.

06. As seen from the Office Order dated 29.12.2010, the Charge Memo was issued calling for explanation from the petitioner, but considering the explanation and other material available on record, imposed penalty of stoppage of two increments with cumulative effect without conducting departmental enquiry, which is mandatory for imposition of major punishment of stoppage under APSRTC conduct regulations.

07. The general procedure is to conduct regular departmental enquiry for imposition of major penalty, otherwise such imposition of penalty is violative of principles of natural justice.

08. The learned counsel for the petitioner placed reliance on the Judgment of this Court in W.P. No.26361 of 2009 between **N.KRISHNA MURTHY V/S THE DEPOT MANAGER, APSRTC AND ANOTHER** decided on 22.02.2016, wherein this Court by placing reliance on the Judgment of the Apex Court in **KARNATAKA POWER CORPORATION LIMITED THOROUGH ITS CHAIRMAN AND MANAGING DIRECTOR v. K.THANGAPPAN AND ANOTHER** ^[1] held that imposition of major penalty without conducting domestic or departmental enquiry is illegal and violative of principles of natural justice, since no opportunity was afforded to prove his innocence in the departmental enquiry.

09. Therefore, by applying the law declared by the Apex Court and this Court the penalty of stoppage of two annual grade increments with cumulative effect imposed against the petitioner vide proceedings No.O1/2(14)/2009-KDR dated 29.12.2010 of the 4th respondent, and confirmed by the 3rd respondent vide proceedings No.PA/19(102)/2011-Dy.CTM-A dated 24.05.2011 is illegal and the same is hereby set aside

holding that such imposition of penalty is against the principles of natural justice. However liberty is given to the respondents to order regular departmental enquiry after the 3rd respondent recording satisfaction about existence of *prima-facie* material, to decide misconduct of the petitioner and impose appropriate penalty, if required.

10. With the above direction, the writ petition is allowed. No costs.

11. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

M. SATYANARAYANA MURTHY, J

28.04.2016

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[\[1\]](#)] (2006) 4 Supreme Court Cases 322