

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.15588 OF 2016

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ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 3rd respondent in proposing to remove the Petitioner from service on the allegation of missing of Bus-passes vide proc. No: P2/443(01)/2015- GPP, Dt. 27-4-2016, instead of recovering the stationary and printing Charges as held by this Hon'ble court in a case reported in 2000 (5) ALT page 7, and as such illegal, unjust and arbitrary, unwarranted, contrary to law and as such liable to be set aside in the interest of justice with a consequential direction to treat the suspension period as on duty and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. Heard Sri S.M.Subhan, learned counsel, appearing for the petitioner and Sri N.Vasudeva Reddy, learned standing counsel, appearing for the respondents.

3. Pursuant to the enquiry conducted against the petitioner, the Depot Manager, Gajwel Pragnapoor Depot, Medak District –

3rd respondent issued a show-cause notice of removal bearing No.P2/443(01)/2015-GPP, dated 27.04.2016, asking the petitioner to show-cause as to why the proposed punishment of 'removal from service' duly treating the suspension period as not on duty for all purpose should not be imposed on the petitioner. The said show-cause notice issued by the respondent authorities is under challenge in the present writ petition.

4. It is the contention of the learned counsel for the petitioner herein that the proposed action is unsustainable in view of the judgment of this Court in **Ch.P.Reddy Vs. A.P.S.R.T.C and another**^[1]. The operative portion of the said judgment reads as under:

“3. ... Therefore, clause (v) of Regulation 8(1) also does not permit the Corporation to impose a penalty which is more than the amount of the loss the Corporation has suffered. Admittedly, in this case the respondents have not suffered loss of the amount which the tickets could fetch if they were sold to the passengers travelling in the buses. They have only suffered the loss which was incurred by the Corporation in their printing and stacking, that cost is also given in the impugned order. The Corporation has suffered a loss of Rs.400/- towards printing value and Rs.284/- on account of the cost of the tray, that makes it Rs.684/- and this Court while entertaining the Writ Petition had allowed the respondents to recover Rs.1,500/- from the petitioner.

4. For the reasons given above, the writ petition is allowed and the impugned order is quashed, but at the same time it is directed that if any amount has been recovered from the petitioner the respondents shall retain the amount which actually they lost because of the negligence of the petitioner the balance shall be paid back to the petitioner and if the amount is not recovered so far, the amount be recovered from the petitioner.”

5. On the contrary, it is submitted by the learned standing counsel for the respondent Corporation that since the impugned notice is only a show-cause, it is always open for the petitioner herein to submit his explanation and to bring to the notice of the respondents the law laid down by this Court in the above referred judgment.

6. Recording the said submission and having regard to the nature of controversy, Writ Petition is disposed of, keeping it open for the petitioner herein to submit explanation to the show-cause notice of removal bearing No.P2/443(01)/2015-GPP, dated 27.04.2016, issued by the Depot Manager, within a period of two weeks from the date of

receipt of a copy of this order. It is also open for the petitioner to make a copy of the judgment referred to available to the Disciplinary Authority. Thereupon, it is open for the disciplinary authority to consider the issue and to pass appropriate orders in the light of the judgment referred supra.

7. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

29.04.2016
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[\[1\]](#) 2000 (5) ALT 7