

OOHON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITON Nos.28907 and 28912 OF 2017

COMMON ORDER:

Since issue involved in these writ petitions is almost identical, these writ petitions are taken up together, heard and being disposed of by this common order.

These Writ Petitions are filed questioning the charge sheet and suspension order issued by the 2nd respondent in proceedings No.01/227/(24)/2017-WL-2, dated 19.08.2017 alleging trivial charge and keeping the petitioners under suspension mechanically without considering the gravity of the alleged misconduct as illegal.

Learned counsel for petitioners submitted that the impugned orders are passed suspending the petitioners on the ground that they are found sleeping during working hours. The powers of suspension cannot be invoked as a matter of routine but can be invoked in case of serious misconduct and relied on ***Union of India vs Ashok Kumar Aggarwal¹*** and this Court passed an order in W.P. No.4350 of 2005 dated 10.03.2005 and in similar circumstances, Division Bench of this Court passed an order in ***Deputy Inspector General of Police, Kurnool***

¹ 2013 (16) SCC 147

Range, Kurnool District vs R.S.Madhubabu, RSI, Kurnool District, Kurnool².

Heard learned counsel for petitioners and Sri B.Mayur Reddy, learned standing counsel for TSRTC.

In the similar circumstances, this Court while considering the issue in W.P. No.4350 of 2005 dated 10.03.2015 set-aside the impugned order.

In ***Deputy Inspector General of Police, Kurnool Range (supra) at para No.21***, the Apex Court observed as under:

“the power of suspension should not be exercised in an arbitrary manner and without any reasonable ground or as vindictive misuse of power. Suspension should be made only in a case where there is a strong prima facie case against the delinquent employee and the allegations involving moral turpitude, grave misconduct or indiscipline or refusal to carry out the orders of superior authority are there, or there is a strong prima facie against him, if proved, would ordinarily result in reduction in rank, removal or dismissal from service. The authority should also take into account all the available material as to whether in a given case, it is advisable to allow the delinquent to continue to perform his duties in the office or his retention in office is likely to hamper or frustrate the inquiry.”

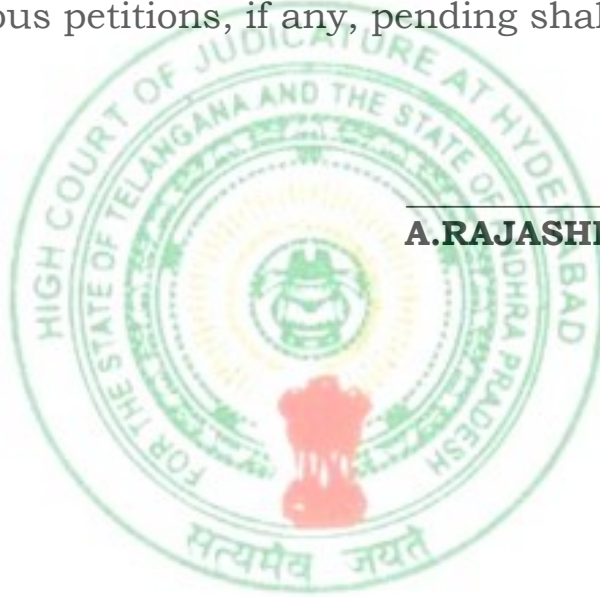
² 2009 (4) ALT 530 (DB)

In view of the above facts and circumstances, this Court finds that impugned orders of suspension are liable to be set-aside. However, this will not preclude the respondent authorities from proceeding with disciplinary proceedings.

Accordingly, the Writ Petitions are allowed to the extent indicated above. No order as to costs.

As a sequel to the disposal of these writ petitions, miscellaneous petitions, if any, pending shall stand closed.

30-08-2017
knl



A.RAJASHEKER REDDY,J



