

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WP No.29632 of 2017

ORDER ::

The petitioner filed this writ petition aggrieved by the impugned action of the 2nd respondent in placing her under suspension vide proceedings dated 26-08-2017 as being illegal, arbitrary and consequently to set aside the same.

2. The case of the petitioner is that she has been working as RTC Conductor for the last nine years in Devarakonda Depot. That on 03-08-2017, at about 6-30 pm, while she was depositing the cash in the Depot, one MS Sunil Raju, Conductor, misbehaved and threatened her with dire consequences and also broken her cell phone, tried to outrage her modesty. In that connection, she approached the concerned Police and based on a complaint lodged by her, a case in Cr.No.303 of 2017, dated 04-08-2017 was registered against the said MS Sunil Raju. That the petitioner also made a complaint about the incident to the 2nd respondent to take action against the said person. But surprisingly, the 2nd respondent passed the impugned order dated 26-08-2017 placing the petitioner under suspension. Hence, this writ petition.

3. Learned counsel for the petitioner contended that the 2nd respondent- Depot Manager, Devarkonda, instead of taking action against the said MS Sunil Raju, who misbehaved with the petitioner, placed the petitioner under suspension, which is un-called for and arbitrary. It is also stated that suspension order and charge memo are issued on the same date, and no opportunity was given to the petitioner to put forth her case. It is stated

that in the facts and circumstances of the case, the impugned order is unsustainable and is liable to be set aside.

4. On the other hand, learned Standing Counsel for the respondents contended that a complaint was also lodge by the said MS Sunil Raju to the 2nd respondent to take action against the petitioner as she misbehaved with him and the 2nd respondent after causing preliminary enquiry, through STI/Devarkonda, passed the impugned order and the petitioner can submit her explanation to the charge memo dated 26-08-2017. It is also sated that suspension, pending enquiry, is not a punishment and the petitioner can substantiate her innocence.

5. It is to be seen that basing on the complaint of the petitioner crime was registered against MS Sunil Raju on 04-08-2017 and the said person also gave complaint on 08-08-2017 and basing on the same, petitioner was suspended. Except saying that there is a complaint against the petitioner, nothing is mentioned, which is very vague.

6. It is settled proposition of law, as observed in a catena of decisions of the Supreme Court as well as this Court that the power of suspension should not be exercised in an arbitrary manner. Order of suspension can be affected 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 prevalent, or there is a strong prima facie case against delinquent, if proved, would ordinarily result in reduction in rank, removal or dismissal from service.

7. In the instant case, complaints are made to the 2nd respondent by petitioner and the said MS Sunil Raju to take action against each other. The impugned order is passed without application of mind to the facts of the case. In the circumstances, the impugned order is set aside. However, this order does not preclude the 2nd respondent from proceeding against the petitioner, in accordance with law since already charge memo is issued.

8. In the result, the writ petition is allowed in part. Miscellaneous petitions, if any pending in this case shall also stand disposed of. There shall be no order as to costs.

Dated: 01-09-2017
NRG



A. RAJASHEKER REDDY, J

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