

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

+ Writ Petition No.34298 of 2014
and
Writ Appeal No.1917 of 2017

% Date: 20-12-2017

T.T. Reddy, S/o T.Ram Reddy, Aged 42 years,
Occ: Driver, R/o Gollapally (V), Balaganganapally (P),
G.D. Nellore (M), Chittoor District
... Petitioner in W.P.No.34298/2014 &
Respondent in W.A.No.1917/2017
Vs.

\$ 1. The Vice Chairman and Managing Director,
APSRTC, Bus Bhavan, Musheerabad, Hyderabad
2. The Regional Manager, APSRTC, Chittoor Region,
Chittoor District
3. The Depot Manager, APSRTC, Chittoor-II, Chittoor District
... Respondents in W.P.No.34298/2014 &
Appellants in W.A.No.1917/2017

! Counsel for Petitioner/Driver: Mr. G.Ravi Mohan

Counsel for APSRTC: Mr. Aravala Rama Rao, Standing Counsel

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> Head Note:

? Cases referred:
Nil.

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Common Judgment: (per V.Ramasubramanian, J.)

The writ appeal arises out of an interim order passed in W.P.No.34298 of 2014. Since the dispute in the writ petition itself lies in a narrow compass, we directed the writ petition also to be posted along with this writ appeal, so that the controversy can be thrashed out at the threshold.

2. Heard Mr. G.Ravi Mohan, learned counsel for the petitioner in the writ petition and Mr. Aravala Rama Rao, learned Standing Counsel for the Road Transport Corporation, which is the appellant in the writ appeal.

3. Challenging a charge memo issued on 24-9-2014, the writ petitioner who was working as a driver in the State Road Transport Corporation, came up with the writ petition W.P.No.34298 of 2014. While admitting the writ petition and ordering notice, a learned single Judge granted interim stay of further proceedings pursuant to the charge memo. The Corporation filed an application for vacating the interim order. But the learned single Judge by an order dated 22-9-2016, refused to vacate the interim order. Therefore, the Corporation has come up with the above writ appeal.

4. The controversy raised in the writ petition lies in a very narrow compass. Therefore, we shall now take up the writ petition itself for disposal.

5. The writ petition challenges a charge memo dated 24-9-2014. The only charge framed against the writ petitioner is as follows:

“For having involved in (Criminal Matters) Transportation of 27 members of Red Sandal Cutters from Tiruvannamalai to Tirupati and Tirumala, in the vehicle bearing No.AP03Z-0012, on the route Tiruvannamalai to Tirumala on 22-9-2014 duly collecting Rs.20,000/- and issued the ticket value is Rs.4,139/- (10 tickets to Tirumala 10X181 = Rs.1,810/- + 17 tickets to Tirupati 17X137 = Rs.2,329/-) as per fare and remaining amount of Rs.15,861/- pocketed by you, which constitutes misconduct under Regulation 28(xv) of APSRTC Employees (Conduct) Regulations, 1963.”

6. The writ petitioner challenged the charge memo on two grounds viz., (a) that the charge was vague and (b) that a criminal complaint on the same set of facts and circumstances, is already pending trial before the appropriate Criminal Court.

7. The complaint filed against the writ petitioner in Crime No.119 of 2014 was for offences under Sections 143, 307, 353, 120B and 109 read with Section 149 IPC. The allegations made in the First Information Report, as seen from column No.12 of the FIR read as follows:

“Occurred on 23-9-2014 at 00.30 AM in front of Gudipala Police Station while the Police made vehicle checking the accused A-1 to A-26 who are the coolies going to cut off the Red sandal wood trees at Tirumala Tirupathi

forest where travelling in the APSRTC bus AP-03-Z-0012, while checking the bus one of the accused attempted to hacked one of the Constable in order to kill him, but the another Constable who was standing pushed aside otherwise the accused might have killed the Constable definitely and also all the accused A-1 to A-26 used criminal force on the police personals while making checking and also A-27 and A-28 who are the bus drivers received bribe from the accused for the transportation of labours illegally. Hence A-1 to A-28 were arrested, seized two rows of saw, three big sickle, bribe amount rupees 15,860/- were seized under a cover of Mahazarnama. Hence the FIR.”

8. We have already extracted the only charge framed in the departmental enquiry. The charge, when looked at from the point of view of the provisions of the Indian Penal Code, may stand on a different footing from the charge as it is framed for misconduct. The fact that the departmental proceedings as well as the criminal complaint, arise out of the same set of facts alone, is not sufficient to conclude that both proceedings should not go on. The charge in the departmental proceeding is that after collecting Rs.20,000/- from the passengers and issuing tickets for an amount of Rs.4,139/-, the balance amount of Rs.15,861/- was not returned. The criminal complaint describes the same as bribe. The departmental proceedings describe the same as pocketing of the money tantamounting to misconduct.

9. Therefore, this is not a case for interference with the departmental proceedings and the writ petition deserves to be dismissed.

10. It appears that the writ petitioner was simultaneously placed under suspension by a separate order dated 24-9-2014. Despite the interim order passed on 13-11-2014, the writ petitioner has not been reinstated into service. As a matter of fact, the writ petitioner was paid 50% of the last drawn wages towards subsistence allowance for some period of time, 75% of the wages for some more period of time and thereafter full salary was paid even according to the learned Standing Counsel for the Corporation for a period of one year. But for the past one year, from August, 2016, neither subsistence allowance nor salary has been paid and the writ petitioner has also not been reinstated.

11. In such circumstances, we are of the considered view that while dismissing the challenge to the charge memo, the writ petitioner should be directed to be reinstated, as otherwise the Corporation will be compelled to pay 100% of the wages as they have done for one year, without extracting any work.

12. Hence, the writ petition is disposed of to the following effect:

- (i) The challenge to the charge memo is dismissed;
- (ii) The respondents shall reinstate the petitioner into service within 4 (four) weeks from the date of receipt of a copy of this order;
- (iii) The respondents shall pay within 4 (four) weeks, the subsistence allowance payable to the petitioner from August,

2016, at the same rate at which it was paid immediately before August, 2016; and

(iv) The respondents shall endeavour to complete the enquiry within a period of 3 (three) months so that both parties know where they stand.

13. In the result, the writ petition is disposed of and the writ appeal is dismissed. The miscellaneous petitions, if any, pending in the writ petition as well as the writ appeal shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

M.GANGA RAO, J.

20th December, 2017.
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(per VRS, J.)



20th December, 2017.
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