

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 26846 OF 2017

ORDER :

This writ petition is filed seeking writ of certiorari to quash the impugned order of suspension and charge sheet issued in common proceedings No.E1/114(1)/2017-NGKL, dated 03.08.2017 as illegal and arbitrary and consequently to direct the respondents to reinstate the petitioner into service.

2. It is the case of the petitioner that he joined in the services of the respondents' corporation as Conductor in the year 1988 and his services were regularized with effect from 01.09.1989. Subsequently, he was also promoted as ADC. While so, he was placed under suspension by the 2nd respondent by virtue of impugned proceedings dated 03.08.2017 on the ground that he committed theft of Rs.5,171/-.

3. Heard Sri V.Narasimha Gound, learned counsel for the petitioner and Sri B.Mayur Reddy, learned Standing Counsel for the respondents' Corporation.

4. Learned counsel for the petitioner submits that preliminary enquiry report dated 01.08.2017 does not support allegation in the suspension order and that all the witnesses gave evidence otherwise and the Enquiry officer,

without any reason held otherwise. He submits that when there is no prima facie case for suspension of the petitioner, the impugned suspension order has no legs to stand and same has to be set aside. He further submits that this Court can always set aside the suspension order when prima facie case is not established. In support of his contention, he relied on the judgments of reported in **T.P.Senkumar v. Union of India (UOI) and others¹** and **G.Govindu v. Telangana State Road Transport Corporation²**.

5. Sri B.Mayur Reddy, learned Standing Counsel for respondents Corporation submits that suspension pending enquiry is not punishment and that at this stage, the merits and demerits of the case cannot be examined. He submits that on the basis of allegations, suspension is ordered and that the respondents will complete the enquiry with greatest speed at hand i.e., within four weeks and that no prejudice would be caused to the writ petitioner. In support of his contention, he relied on the judgment reported in **Deputy Inspector General of Police, Kurnool, Ranga Reddy District v. R.S.Madhubabu, RSI, Kurnool District³**.

6. In this case, it is to be seen that impugned suspension order is passed on the ground that the petitioner has committed theft of Rs.5,171/- from the ADC Clerk Smt. A.V.Vardhanamma, E.151203. Learned counsel for

¹ (2017) 6 SCC 801

² 2017 (3) ALD 755

³ 2009 (4) ALT 530 (DB)

the petitioner argued that in the preliminary enquiry, all the witnesses spoke otherwise and the Enquiry Officer held otherwise. There is a *prima facie* conclusion by the enquiring authority and that the same cannot be gone into at this stage. Admittedly, when the matter is at the stage of preliminary enquiry, the question of theft by the petitioner cannot be decided in this writ petition.

7. In **Deputy Inspector General of Police, Kurnool, Ranga Reddy District v. R.S.Madhubabu, RSI, Kurnool District (supra)**, when the Administrative Tribunal has suspended the impugned suspension order, this Court has set aside the said order granted by the Administrative Tribunal, holding that the Tribunal cannot exceed its jurisdiction.

8. It all depends upon the facts and circumstances of each case whether the suspension pending enquiry can be interfered or not, but is settled principle of law that this Court cannot, as a matter of course, interfere with the order of suspension by exercising the power of judicial review under Article 226 of the Constitution of India.

In view of above facts and circumstances, this Court is not inclined to entertain the writ petition and interdict the order of suspension, pending enquiry. But, however, since it is stated by the learned Standing Counsel that the enquiry will be conducted within a period of four weeks, the respondents are directed to complete the enquiry within a

period of four weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.RAJASHEKER REDDY,J

11-08-2017
kvs



HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.26846 OF 2017



Date: 11.08.2017

kvs