

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 31292 of 2017

Order:

The petitioner joined the service of the respondents-Corporation as Driver on 06.01.1997 and his services were regularized with effect from 01.01.1998. He is an active member of APSRTC Employees Union and also Depot Secretary of Kadiri Depot for the last four years. He has been regularly representing the grievances of co-employees. While so, on the complaint of one Smt. P. Radhika, Conductor, who is a member of rival Union, APSRTC NMU, with the A.P. State Women's Commission, enquiries were conducted by the Personnel Officer and Regional Manager. On the basis of those preliminary enquiries, the petitioner was kept under suspension pending enquiry by an order dated 30.08.2017. A charge sheet was also issued in respect of the charges levelled against the petitioner on the same day. Challenging the same, the present Writ Petition is filed.

Now a counter affidavit is filed on behalf of the respondents-Corporation stating that the Secretary of A.P. Women's Commission, Guntur sent the complaint to the Vice-Chairman and Managing Director, Vijayawada duly advising to take action. Pursuant to the same, the Director (Vigilance and Security), Vijayawada instructed the Vigilance and Security Officer, Kadapa Zone to conduct a detailed enquiry. The enquiry report was sent to the Regional Manager, Anantapur, recommending to take disciplinary action against the petitioner. The same was transmitted to the Depot Manager, Kadiri. In view of the same, the orders were passed on 30.08.2017 placing the petitioner under suspension. In the Vigilance enquiry, Smt. P. Radhika, Lady Conductor, deposed that the

petitioner, who is driver of Kadiri Depot, started harassing her when she was alone and also questioned her character. There is other evidence to show that the petitioner was in the habit of shouting loudly and refusing vehicles for service. The third respondent is having jurisdiction to initiate disciplinary proceedings and, accordingly, the proceedings were initiated.

Learned counsel for the petitioner submits that in view of the opinion formed by the Managing Director, while addressing a letter to the Secretary, A.P. Women's Commission, stating that the allegations against the petitioner were proved in enquiry, the proposed enquiry is only an empty formality and it may end in dismissal of the petitioner from service.

Learned Standing Counsel for the respondents submits that the petitioner already submitted his explanation and enquiry is yet to commence.

Merely because the Managing Director addressed a letter to the Secretary, A.P. Women's Commission stating that the allegations against the petitioner were proved, it cannot be construed that the authorities have come to a decision. The language may not be proper, as no enquiry report except a preliminary enquiry report is available with the Managing Director. After communication of the said letter on 17.07.2017, the impugned order of suspension along with a charge memo was issued on 30.08.2017. The charges levelled against the petitioner are as follows:

"1) Charge 1: For having commented adversely against Smt. P. Radhika, Conductor about her character, altercation took place between them and caused to lodge a complaint at Kadiri police station, but in the enquiry, and tarnished the image of the corporation in the eyes of the public and caused to indiscipline among the employees which constitutes a serious misconduct under Reg.22 & 28 (viii) & (xxxii) of APSRTC Employees (Conduct) Regulations 1963.

2) Charge 2: For having directly questioned the petitioner of Smt. P. Radhika, E.577514, Conductor of Kadiri depot as to how she managed for her retention at Kadiri depot and commented her in an insulting manner at Kadiri depot, which is a serious misconduct under Reg.28 (xxxii) of APSRTC Employees (Conduct) Regulations 1963.

3) Charge 3: For having caused to habituated to address the employees and Supervisors and others in harsh voice and loud manner and so addressed the petitioner (Smt. P. Radhika, Conductor also) and in the same way he addressed the petitioner Smt. P. Radhika, E.577514, Conductor of Kadiri depot also over her retention at Kadiri depot without getting relived on par with other Conductors. In fact you have no such business to question her authority as to how she managed to retain at Kadiri depot, which constitutes misconduct under Reg. 28 (xxi) & (xxxii) of APSRTC Employees (Conduct) Regulations 1963.”

The charges require enquiry. In view of the same, this Court is not inclined to interfere with the enquiry process. However, the enquiry authority shall, independently, on the basis of the evidence available with him, come to a conclusion with regard to charges levelled against the petitioner. He shall not be carried away by any external material, except that was produced before him. He shall conduct an independent enquiry and submit a report to the competent authority, third respondent. The enquiry shall be completed as expeditiously as possible, but not later than three (3) months from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 08.11.2017
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