

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.42614 OF 2016

Date:09.03.2017

Between:

Shaik Hameed, S/o. Shaik Khaja Moinuddin,
Aged about 53 years, Occ: Driver, E.208154,
TSRTC, Ibrahimpatnam (IBPM) Depot,
R/o. Bangaigudda, Mandal Chendur,
Nalgonda District

.. Petitioner

And

TSRTC, rep., by its V.C. & M.D.,
Bus Bhavan RTC X Road,
Musheerabad, Hyderabad and another

.. Respondents



THE HON'BLE SRI JUSTICE P. NAVEEN RAO

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ORDER:

Petitioner is working as a Driver. By proceedings dated 25.11.2016, the respondent – Corporation placed the petitioner under suspension and served charge sheet on him.

2. The sum and substance of the allegation in the charge sheet is, on 08.11.2016 at the entrance gate of Ibrahimpatnam (IBPM) Bus Station, while taking 'U' turn to enter into the bus station, the petitioner hit a motor cycle, resulting in fatal accident. The disciplinary action is in progress. The petitioner challenges his suspension from service as well as serving of charge sheet on him, in this Writ Petition.

3. At the hearing, the only submission made by learned counsel for the petitioner is that the Depot Manager, IBPM Depot, Ranga Reddy District, the 2nd respondent, was part of the Two-Member preliminary enquiry team, who conducted enquiry into the accident occurred on 08.11.2016, and based on his findings in the enquiry, he placed the petitioner under suspension and also initiated the disciplinary proceedings by appointing an enquiry officer. He submits that since the Depot Manager was part of the enquiry team, it is open to the petitioner to call the Depot Manager as a witness to examine him during the course of enquiry. He further submits that such a person cannot act as a disciplinary authority and his continuation as disciplinary authority would seriously prejudice the petitioner and have deleterious

consequences on him and therefore the petitioner has serious apprehension in continuing the Depot Manager as disciplinary authority. He fairly submits that if the disciplinary authority is changed, the petitioner is willing to participate in the disciplinary proceedings.

4. Learned Standing Counsel for the respondent – Corporation, on instructions, clarifies that the enquiry officer directly functions under the Divisional Manager and not under the control of the Depot Manager. He fairly submits that if directions are issued to change the disciplinary authority, appropriate steps would be taken in that regard having regard to the apprehensions expressed by the petitioner that the disciplinary authority was part of the preliminary enquiry team.

5. I see merit in the submission of learned counsel for the petitioner. Disciplinary proceedings are quasi-judicial proceedings. Such proceedings have to be conducted in a fair manner. Any apprehension of bias or prejudice expressed by delinquent employee, more so made at the threshold has to be considered objectively. It is just and equitable to change the disciplinary authority. In the case on hand as the disciplinary authority was part of the enquiry team, which has conducted preliminary enquiry and submitted report and based on which disciplinary action was taken, he should not be continued as disciplinary authority to deal with the disciplinary action against the petitioner.

6. Having regard to the same, the Writ Petition is disposed of with the following directions:

- (i) The 1st respondent shall appropriately direct the concerned Regional Manager to change the disciplinary authority, if the same person, who conducted preliminary enquiry, continues to be the Depot Manager and appoint another person other than, Sri C. Hemantha Rao, who shall not act as a disciplinary authority insofar as the subject matter of the charge sheet, dated 25.11.2016 is concerned;
- (ii) Having regard to the fact that the disciplinary proceedings were initiated on 25.11.2016, the respondents are directed to conclude the same as expeditiously as possible preferably within a period of two months from the date of receipt of a copy of this order; and
- (iii) The petitioner shall cooperate for early conclusion of the disciplinary proceedings, if not already concluded.

There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:09.03.2017

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