

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 2344 OF 2017

ORDER:

In this writ petition, the petitioner, who is a driver in respondent - Corporation, challenges the charge sheet as well as the suspension order, dated 18.01.2017, issued by the 2nd respondent.

Heard learned counsel for the petitioner and the learned Standing counsel.

It is alleged in the charge sheet as well as the suspension order that on 02.01.2017 the petitioner came to depot to perform 08.00 hours Degloor service, signed on the control chart, checked the bus and just about the time he was subjected to Breath Analyzer Test, he absconded from the depot without intimation to the officials. A preliminary enquiry was conducted and based on the said enquiry, order of suspension and charge sheet were issued.

Learned counsel for the petitioner contends that the petitioner has not deliberately absconded from duty and that when he boarded the bus, he suddenly developed back pain and, therefore, he immediately rushed to the hospital. The said fact was informed to the Traffic Inspector (ADC) and that he was subjected to medical examination. Learned counsel submits that the statement of the Traffic Inspector and the medical record disclose that what was contended by the petitioner was true and that only because of ill-health he could not attend the duty.

Whether the petitioner had genuine health problem and whether he suddenly left the bus and got himself checked in the hospital are matters, which require consideration during the enquiry. Based on the prima facie material available on record, the disciplinary authority was of the opinion that the petitioner deliberately absented only to avoid Breath Analyzer Test and based on the allegations, charge sheet as well as suspension order was issued. At this stage, the

Court cannot go into the correctness of the allegations leveled against the petitioner and record findings on merits. During the course of enquiry, the petitioner can take the same defence, as sought to be taken in this writ petition. The jurisdiction of the writ Court is limited and in exercise of its power under Article 226 of the Constitution of India can test the correctness of the final order passed by the disciplinary authority, but not at the interlocutory stage, touching upon merits. I am not inclined to entertain the writ petition at this stage.

Learned counsel for the petitioner submits that the petitioner may be given a week's time to submit his explanation.

The writ petition is dismissed leaving it open to the petitioner to submit his explanation to the charge sheet. However, it is needless to observe that if an explanation is filed and disciplinary authority intends to conduct enquiry, it shall conduct enquiry and complete the same within a period of two months from the date of receipt of a copy of the explanation. The petitioner should cooperate with the authorities till completion of enquiry.

Miscellaneous petitions, if any, shall stand dismissed. No order as to costs.

P. NAVEEN RAO, J

Date: 25.01.2017
ES