

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

AND

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT APPEAL No.1061 OF 2018

JUDGMENT: (Oral, *Per* Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present Appeal, the appellant has challenged the order, dated 26.07.2018, passed in Writ Petition No.22951 of 2018; whereby the Petition filed by the petitioner, challenging the suspension order dated 20.04.2018, has been dismissed.

Admittedly, the petitioner was Manager of the Kadapa District Co-operative Central Bank, Siddavatam Branch, and is responsible to overall functioning of the Bank including safe custody to gold bags, gold chest, movement register, keys movement register and working of C.C. T.V. Cameras.

Based upon the news item published in '*Andhrajyothi*' the Telugu daily news paper dated 19.04.2018 and after enquiry, the petitioner was placed under suspension, which was challenged by the appellant in the Writ Petition.

Learned counsel appearing on behalf of the appellant submits that, after filing the Writ Petition enquiry report was submitted *vide* order dated 19.04.2018 whereby the petitioner is not held responsible for the alleged misconduct.

On perusal of the said report, in the last Para, it is opined that the petitioner and Smt.P.V. Subbamma, the then Assistant Manager of Siddavatam Branch are jointly held responsible for the alleged misconduct and embezzlement.

Since the petitioner is challenging the suspension, pending enquiry, the law is well settled in case of **G.Govindu Vs. Telangana State Road Transport Corporation, Hyderabad and another**¹, whereby this Court observed as under:

“27. Ordinarily an employee’s services can be placed under suspension in the following contingencies:

a) Where disciplinary proceedings are contemplated or pending;

b) Where the disciplinary authority was of the *prima facie* opinion that the employee is engaged in activities prejudicial to the interest and security of the State;

c) Where the case against him in respect of criminal offence is under investigation, enquiry or trial;

d) Pending investigation/enquiry into allegations, it is found not desirable to continue the employee in service in public interest;

e) Such continuation in service during pending enquiry/investigation is likely to prejudice the investigation, trial enquiry; there is a possibility of tampering of documents, influencing the witnesses, *etc.*; and

f) It is also permissible to suspend an employee if his continuation is likely to cause/encourage indiscipline in the organization.”

Learned counsel for the appellant has also relied on a decision of this Court in **P.Rajender Vs. Union of India and another**², whereby it was held that normally when the appointing authority or disciplinary authority seeks to suspend an employee, pending enquiry or contemplated enquiry or pending investigation into grave charges of misconduct or defalcation of funds of serious acts of omission and commission, the order would be passed after taking into consideration the gravity of the misconduct so to be enquired.

¹ 2017 (3) ALD 755

² 2001 (5) ALD 290 (DB)

In the present case, as per the suspension order, the allegation is missing of Rs.13,00,000/- worth gold bags. Accordingly, preliminary enquiry was ensued and in the preliminary enquiry it was pointed out that 4 gold bags were not traced out in the chest in the Branch and the petitioner and two others were jointly made responsible for missing of 4 gold bags worth Rs.13,00,000/-. Thus, it cannot be said that the disciplinary authority, while placing the petitioner under suspension, has not applied its mind keeping in view of the grave charges in the misconduct, we are not inclined to interfere with the order impugned before this Court.

Finding no merit in the instant Appeal, the Writ Appeal is, accordingly, dismissed. No costs.

As a sequel, pending miscellaneous petitions, if any, shall stand dismissed.



SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

Date: 08-08-2018.
Dsh

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

AND

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

153



20082018

WRIT APPEAL No.1061 OF 2018

(Judgment of the Division Bench delivered by
Hon'ble Sri Justice Suresh Kumar Kait)

Date. 08-08-2018

DSH