

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.45195 of 2017

ORDER:

The petitioner states that he joined the services of the respondent Corporation on 01.07.1987 as Conductor and later he was promoted as Assistant Depot Clerk in the year 2013. He was suffering from diabetes, blood pressure and Spondylosis. While so, on 20.11.2017 when he was discharging his duties, he developed giddiness at about 7:00 PM, the Depot Secretary shifted him to Area Hospital, Banswada, and he was admitted in the hospital at about 8:00 PM. He applied for leave from 20.11.2017 to 26.11.2017 and it was extended from 27.11.2017 to 07.12.2017. On 07.12.2017 the Medical Officer, Nizamabad, referred the petitioner to Tarnaka Hospital, Hyderabad, for specialist check up and accordingly he underwent treatment from 08.12.2017 to 18.12.2017. Thereafter, he was issued a fitness certificate to resume duties. The petitioner reported to duties on 22.12.2017 before the second respondent, but, he was issued a charge sheet and an order dated 22.12.2017, keeping him under suspension. Challenging the same, the present Writ Petition is filed.

2. A reading of the impugned charge sheet states as follows:

“It is alleged and reported by Head Constable/BSWD that on 20.11.2017 at about 20.30 Hrs. he received a phone call from Sri MD.Yousuf, E.675250, Driver of Banswada Depot and informed that the on duty Controller Sri B.Appa, E.303803, who was on duty is consuming alcohol in the Dhaba Hotel situated nearby Depot together with Sri Yadhullah, E.675164, Driver and other Conductors of Depot. Further, the Head Constable/BSWD has reported that he has informed the same to the AM (T)/BSWD over

phone and enquired about the duty hours of Sri B.Appa, E.303803, Controller. In turn the AM (T)/BSWD informed to him that Sri B.Appa, E.303803, Controller is on duty and no permission was given to him. Later, the Head Constable/BSWD went to garage and brought Sri S.Harban Singh, E.303971, Supdt(Mech)/BSWD to the Chart Controller room, where Sri B.Appa, E.303803, Controller sat in the Chart Controller room. Further, the Head Constable/BSWD has reported that when trying to check with the Breath Alcohol Analyzer on Controller by the on duty out sourcing Security Guard Sri K.Bharath Kumar and himself in presence of Supdt (Mech)/BSWD, the Controller pushed them and went outside the Depot at about 2045 hrs and absconded from duty.”

3. The charge levelled against the petitioner is as follows:

“For having absconded while performing duty at Control Chart Room and when tried to check with the Breath Alcohol Analyzer by the on duty out sourcing Security Guard and Head Constable/BSWD in presence of Sri H.Harban Singh, E.303971, Supdt (Mech) pushed them and went outside the Depot at about 20.45hrs., which shows your gross negligence and intense carelessness on part of your duty which constitutes, mis-conduct under Reg.28 (ix-a), (xxxii) of TSRTC employees (Conduct) Regulations, 1963.”

4. Learned counsel for the petitioner submits that in fact the petitioner was admitted in Area Hospital, Banswada, and he filed medical record to that effect.

5. Learned counsel for the respondents submits that the record is created for the purpose of the present case and the petitioner should face the enquiry.

6. It is clear from the above facts that totally contradictory stands are taken by the petitioner and the respondents. Be that as it may, the petitioner is kept under suspension for an incident that

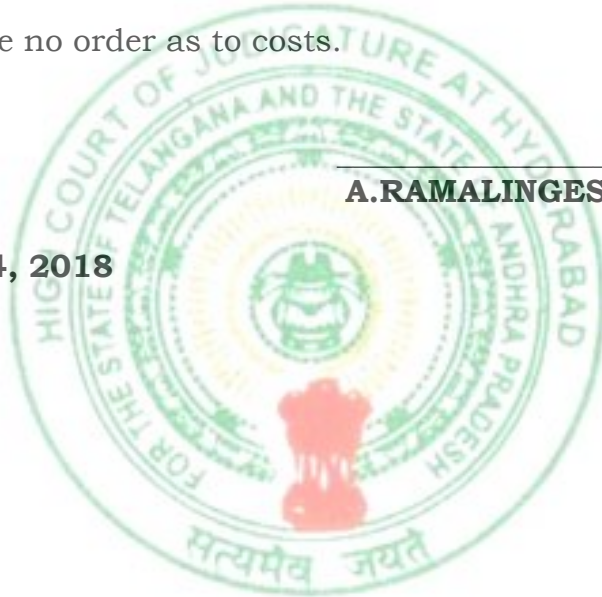
occurred on 20.11.2017. But, the petitioner need not be kept under suspension for such an incident, as there is no scope for tampering the record or evidence.

7. In the circumstances, this Court feels that this is a fit case for suspending the order of suspension, but, however, it is open to the respondents to go ahead with the enquiry. It is needless to observe that the petitioner shall co-operate with the enquiry.

8. The Writ Petition is, accordingly, disposed of. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

JANUARY 04, 2018
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Date: 04.01.2018

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