

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

FRIDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

WRIT PETITION NO: 15059 OF 2008

Between:

K. Raheemuddin, S/o. Nayeemuddin, Aged about 39 years, Conductor
(E-650043) APSRTC, Devarakonda Bus Depot, Nalgonda District, A.P.

...PETITIONER

AND

1. The Depot Manager, APSRTC, Devarakonda Bus Depot, Nalgonda District, A.P.
2. The Dy. Chief Traffic Manager, APSRTC, Nalgonda Region, Nalgonda, A.P.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of Mandamus declaring that the action of the Respondents in imposing the punishment of reducing the petitioner's basic pay by two incremental stages with cumulative effect and treating the suspension period as not on duty as bad, arbitrary illegal, unreasonable unjust and disproportionate by setting aside the office order No. 02/95(27)/99-DVK dt. 11-2-2000 of respondent No.2 herein and consequently direct the respondents to fix the petitioner's pay by adding the reduced increments and treating the suspension period as on duty.

I.A. NO: 1 OF 2008(WPMP. NO: 19471 OF 2008)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent to pay the petitioner salary by adding the reduced increments from this Month onwards by suspending the office Order No. 02/95(27) /99-DVK dt. 11-2-2000 of Respondent No.2 herein.

Counsel for the Petitioner: SRI P.VENKATESWAR RAO

Counsel for the Respondents: SRI GADDAM SRINIVAS (SC FOR TSRTC)

The Court made the following: ORDER

HONOURABLE SRI JUSTICE J.SREENIVAS RAO**W.P.No.15059 OF 2008****ORDER:**

Heard Sri P. Venkateshwar Rao, learned counsel for the petitioner and Sri Gaddam Srinivas, learned Standing Counsel for the respondents' Corporation.

2. This writ petition is filed under Article 226 of Constitution of India seeking a Writ of Mandamus to declare the action of the respondents in imposing the punishment of reducing the petitioner's basic pay by two incremental stages with cumulative effect, and treating the suspension period as 'not on duty', as bad, arbitrary, illegal, and disproportionate and consequently to set aside the Office order No. 02/95(27)/99-DVK, dated 11.02.2000 passed by 1st respondent.

3. Brief facts of the case are that the petitioner was appointed as a "Conductor" in the respondents' Corporation. On 01.08.1999 while he was performing his duties *en route* Devarakonda to Pogilla, a check was conducted at Stage No.16 (Pogilla). During the check, the inspection staff of the Corporation noticed cash and ticket irregularities. Subsequently, a charge memo dated 01.08.1999 was issued to the petitioner for the aforesaid lapses. Thereupon the petitioner had submitted his explanation but the respondents' Corporation has not issued any reply. Subsequently, the respondents'

Corporation had issued charge sheet dated 24.09.1999 along with suspension order stating that the petitioner failed to collect ticket fare from passengers. The petitioner submitted explanation on 29.09.1999 to the above said charge sheet. Later, the respondents' Corporation conducted an enquiry and passed final order No.02/95(27)/99-DVK, dated 11.02.2000 by the 1st respondent imposing punishment of withholding of annual increment for a period of two years with cumulative effect and the period of suspension is treated as 'not on duty'. Thereafter, the petitioner preferred appeal before the 2nd respondent on 04.07.2007. Later the 2nd respondent rejected his appeal on 24.08.2007 as time barred, after lapse of seven years. Again the petitioner filed a Review Petition on 01.09.2007 before the Regional Manager, APSRTC, Nalgonda and the same was rejected.

4. The learned counsel for the petitioner vehemently contended that the Enquiry Officer without considering the explanation submitted by the petitioner to the charge sheet, submitted the enquiry report. He further contended that at the time of checking, two passengers have given statements that they have not taken tickets and not paid the bus fare. Hence, the ticket fare was collected from the passengers by the TTI and also imposed a fine of Rs.50/-. He further contended that other two passengers also have given statements that they have boarded the top of the bus while the bus was in slow motion when the sheep cattle was crossing before the bus without the

knowledge of the petitioner as well as driver of the bus and they have not paid ticket fare and collected the tickets from the petitioner. The above said statements of the passengers itself would establish that there was no intention of misappropriation of any amounts and the petitioner has not caused any loss to the respondents' Corporation. The 1st respondent without considering the above said aspects passed the impugned order imposing punishment withholding of two increments with cumulative effect, which is a major punishment though the petitioner has not committed any misappropriation while discharging his lawful duties as a Conductor.

5. The learned counsel for the respondents submits that the respondents' Corporation after following the due procedure contemplated under the Regulations and after conducting enquiry by duly appointing an Enquiry Officer and that apart considered the explanation of the petitioner as well as the findings of the Enquiry Officer, impugned order was passed on 11.02.2000; and as such, there is no illegality in the impugned order passed by 1st respondent.

6. Having regard to the rival contentions and the material placed on record, apparently, the petitioner had submitted his explanation to the charge sheet for the charges levelled against him. The petitioner has emphatically contended that at the time of checking, two passengers have given statements that they have not taken tickets and not paid the bus fare and other two passengers have also given

statements that they have boarded the top of the bus while the bus was in slow motion when the sheep cattle was crossing before the bus without the knowledge of the petitioner as well as driver of the bus and further stated that they have not paid ticket fare and collected the tickets from the petitioners. The learned counsel for the petitioner rightly contended that the respondents' Corporation without considering the statements given by the passengers and without properly considering the explanation submitted by the petitioner to the charge sheet, passed the impugned order against the doctrine of proportionality basing on the report submitted by the Enquiry Officer imposed punishment of withholding annual grade increments for a period of two years with cumulative effect. The respondents' Corporation has failed to establish that the act of the petitioner was intentional in not issuing the tickets to the passengers and he played a fraud to cause colossal financial loss to the respondents' Corporation exchequer but it amounts to only negligence on the part of the petitioner. In such circumstances, the respondents' Corporation ought not to have imposed punishment; namely, stoppage of increments for a period of two years with cumulative effect, which, in the considered opinion of this Court is a major punishment.

7. Taking into consideration of the facts and circumstances of the case and also the length of service rendered by the petitioner, this Court deems it fit and proper to modify the quantum of punishment of

stoppage of annual grade increment without cumulative effect for a period of two years. However, it is made clear that this modification of punishment shall have prospective effect only from the date of passing of this order and the petitioner shall not be entitled to claim the monetary benefits for the period prior to passing of this order.

8. Subject to the above modification, the writ petition is partly allowed accordingly. No order as to costs.

Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

//TRUE COPY//

SD/-N. SRIHARI
ASSISTANT REGISTRAR
GO
SECTION OFFICER

To

1. The Depot Manager, TSRTC, Devarakonda Bus Depot, Nalgonda District, Telangana State.
2. The Dy. Chief Traffic Manager, TSRTC, Nalgonda Region, Nalgonda, Telangana State.
3. One CC to SRI P. VENKATESWAR RAO, Advocate [OPUC]
4. One CC to SRI GADDAM SRINIVAS (SC FOR TSRTC) [OPUC]
5. Two CD Copies

PSK.

GJP *fx*

HIGH COURT

DATED:30/12/2022



ORDER

WP.No.15059 of 2008

ALLOWING PARTLY THE WRIT PETITION
WITHOUT COSTS.

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