

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

**WEDNESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION NO: 24415 OF 2012

Between:

S. Chiranjeevi, S/o S.S. Krishna Rao, aged about 58 years, Occ: Ex Superintendent (Mechanical), E-64559, A.P.S.R.T.C., Tandur Depot, R/o 6-3-609/10/2, Anand Nagar, Khairatabad, Hyderabad

...PETITIONER

AND

1. The Andhra Pradesh State Road Transport Corporation, A.P.S.R.T.C., Bus Bhavan, Musheerabad, Hyderabad, Rep. by its Vice-Chairman and Managing Director.
2. The Executive Director, A.P.S.R.T.C., Hyderabad Zone, MGBS, Hyderabad.
3. The Regional Manager, A.P.S.R.T.C., Ranga Reddy Region, MGBS, Hyderabad.

...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 of Certiorari Calling for the records relating to the orders of the 2nd Respondent dt. 9.5.2011 confirming the orders of the 3rd Respondent dt. 9.8.2010 and consequently set aside the same and declare that the petitioners is entitled to all retirement benefits without any reductions consequent on the above orders of punishment.

Counsel for the Petitioner: SRI A. SRINATH

Counsel for the Respondents: THOOM SRINIVAS (SC FOR TSRTC)

The Court made the following: ORDER

HONOURABLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION No.24415 of 2012

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner, seeking the following relief:

"to issue a Writ of Certiorari calling for the records relating to the orders of the 2nd Respondent dt.9.5.2011 confirming the orders of the 3rd Respondent dt.9.8.2010 and consequently, set aside the same and declare that the petitioner is entitled to all retirement benefits without any reductions consequent on the above orders of punishment and pass such other order or orders as may be deemed fit and proper in the circumstances of the case."

2. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents-Corporation and perused the record.

3. The learned counsel for the petitioner has stated that the disciplinary authority as well as appellate authority without taking into consideration the clean service record of the petitioner and the fact that he has served for more than 35 years, have imposed punishment of "reversion to the substantive post of Deputy Superintendent (Mech) for a period of two years duly fixing his pay at pre-promotion stage having effect on his future increments", which is highly disproportionate and unreasonable for the charges

levelled against the petitioner. It is stated that the petitioner was working as Superintendent at Tandur depot at the relevant point of time and that his role is that of only Supervisor but not maintaining the accounts. That petitioner relying on the bills submitted by his subordinates has signed the same in good faith and that he was not instrumental in preparing the purchase bills as alleged. That the punishment imposed on the petitioner is major penalty and the same has resulted in substantial reduction of the retiral benefits of the petitioner. Even though the petitioner has submitted a detailed explanation, the disciplinary authority has not taken the same into consideration and in a predetermined manner held the petitioner guilty of the charges and erroneously imposed the punishment of reversion to the substantive post of Deputy Superintendent (Mech) for a period of two years duly fixing the pay at pre-promotion stage having effect on the petitioner's future increments. Further, it is stated that though the petitioner has preferred an appeal and raised many grounds in the appeal, the appellate authority without application of mind and in a mechanical manner, has dismissed the appeal without adverting to any of the grounds raised. The learned counsel has stated that the petitioner cannot be blamed for the lapses committed by the subordinates

and he cannot be solely held responsible for the dereliction of duties of his subordinates. That the role of the petitioner is very limited and it is restricted to only supervising the employees and he cannot be blamed for the lapses, if any committed by his subordinates and ultimately prayed to allow the Writ Petition, as prayed for.

4. Per contra, learned Standing Counsel appearing on behalf of the respondents-Corporation has stated that the petitioner does not have a clean service record and the disciplinary authority has followed the procedure strictly inconsonance with the rules and regulations of the Corporation and imposed the punishment commensurate with the charge levelled against the petitioner and the same was confirmed by the appellate authority. The charges levelled against the petitioner are grave and the acts committed by the petitioner resulted in substantial financial loss to the Corporation and therefore, the authority concerned had to impose the punishment on the petitioner. The learned Standing Counsel has stated that the petitioner being Superintendent of Tandur Depot, was duty bound to verify the bills and accounts submitted by the Subordinates but he has not done so i.e, the petitioner is incharge of mechanical wing of the Tandur Depot and due to the

irregularities in discharge of his duties, the disciplinary authority has decided to impose the punishment of "reversion to the substantive post of Deputy Superintendent (Mech) for a period of two years duly fixing his pay at pre-promotion stage having effect on his future increments", and the same has been upheld by the Appellate Authority. The learned Standing Counsel has stated that the scope of this Court to review the punishment imposed by the disciplinary authority as well as appellate authority under Article 226 of the Constitution of India is very limited and has drawn the attention of this Court to previous service record of the petitioner with regard to the earlier punishments imposed against him and therefore, the learned Standing Counsel stated that no leniency can be granted to the petitioner and ultimately prayed to dismiss the writ petition.

5. Admittedly, in the present case, the allegations levelled against the petitioner are that during the relevant period, when the petitioner was working as Superintendent at Tandur Depot, he was incharge of mechanical wing and when one of the motor pump of bore-well failed to function on 08.09.2008, the estimates were called for from M/s. Sri Sairam Aaro Agencies dt.16.10.2008, M/s.Maruthi Agency dt.17.10.2008 and M/s. Jai Hanuman Motor

Rewinding Works dt.16.10.2008 i.e, after more than one month period and after the actual repair took place. The above quotations were not attested by the Unit Officer and the Purchase Order was prepared on 16.10.2008 for which sanction of RM/RR was obtained on 24.10.2008, wherein it was already mentioned that the material was already received in view of emergency. Though the bore-well was not functioning from 08.09.2008 to 13.09.2008, the petitioner certified the works of washing of buses for drawal of full amount of Rs.33,111/- towards monthly remuneration of September, 2008 without deducting the amounts for the days washing was not carried out. Further, during the period from March, 2008 to January, 2009, it was found that the minimum washing programme for 10 buses and washing and sweeping of 60 buses as per agreement could not be done by the Contractor Smt. Balamma and she failed to provide parking drivers in 11 shifts during the month of September, 2008. Further, a total excess payment of Rs.22,479/- was made, the penalty to be levied was Rs.17,292/-, ESI to be recovered was Rs.19,014/- and thus total amount to be recovered from the Contractor was Rs.58,785/- as against the available Security Deposit of Rs.33,111/-. Basing on the above

irregularities, the following charge was framed against the petitioner:

"CHARGE: For having requisitioned for drawal of amount of Rs.33,111/- towards monthly remuneration for the month of Sept, 08 and certified the works of washing of buses from 08.09.08 to 13.09.08 on which the borewell was not functioned and washing of buses could not be done by the Contractor, for having failed to extract the work under minimum washing programme from the contractor and for having obtained quotations on 02.09.08 for local repairs of borewell in advance though the borewell was failed to function on 08.09.08 which is a serious misconduct in terms of Reg.28(ix) (a) of APSRTC Employees (Conduct) Reg.1963."

Even though the petitioner has submitted his explanation to the said charge, the same was found to be not satisfactory. The disciplinary authority/respondent No.3 after duly taking into consideration the submissions made by the petitioner as well as the enquiry officer, vide proceedings dated 09.08.2010, imposed the punishment of "reversion to the substantive post of Dy.Suptd (Mech) for a period of two years duly fixing the petitioner's pay at pre-promotion stage having effect on his future increments" against the petitioner. A perusal of the explanation submitted by the petitioner shows that except making bald denial, the petitioner has not specifically denied the charge levelled against him. The explanation submitted by the petitioner was found to be vague. A

perusal of the record shows that the authorities have followed the procedure contemplated under the regulations and the same cannot be faulted with. It is pertinent to note that during the period from 08.09.2008 to 13.09.2008, it was found by the enquiry officer that the petitioner had certified the washing of the buses as under:

8-9-2008	50 buses washed
9-9-2008	48
10-9-2008	39
11-9-2008	45
12-9-2008	50
13-9-2008	55

Moreover, the petitioner has not denied that he certified the claims submitted even though the buses were not washed. In the submission of the petitioner, he has categorically stated as under:

"As the work was extracted from them though they are belonging to working contract. Since we had not paid extra labour charge I had certified that the vehicles were washed by them. Further some vehicles were washed by the labour. Hence I had certified."

6. Even though the petitioner has stated that he is having a clean record and inspite of serving the Corporation for 35 years, the above punishment was punishment was imposed on him. A perusal of the counter filed by the respondents-Corporation shows that the petitioner during his service, while working as Mechanic,

his annual increment was deferred for a period of two years without cumulative effect for unauthorised absenteeism vide letter dated 05.01.1985 issued by the Depot Manager, Hyderabad-1 and the same was subsequently modified as one year without cumulative effect by the Divisional Manager, RRD, vide proceedings dated 24.05.1986. Further, the annual increment was once again deferred for a period of one year without cumulative effect vide final order dated 19.11.2008 passed by the Depot Manager, Tandur. Therefore, the contention of the petitioner that he is having clean record cannot be believed. The petitioner has not bothered to file a reply to the counter filed by the respondents. Therefore, the averments made in the counter stand unrebutted.

7. This Court in ***M. Gopalakrishna v. Divisional Security Commissioner, RPF, S.C.Railway, Guntakal, Anantapur District***,¹ observed as follows:

"28. In *V.Ramana vs. APSRTC and others* ((2005) 7 SCC 338), the Hon'ble Supreme Court held thus:

*"... THE common thread running through in all these decisions is that the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in the *Wednesbury's* case (supra) the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its*

¹ 2006 SCC OnLine AP 566 : (2006) 5 ALD 704 : (2006) 5 ALT 408

decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision.

To put differently unless the punishment imposed by the Disciplinary Authority or the Appellate Authority shocks the conscience of the Court/Tribunal, there is no scope for interference. Further to shorten litigations it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In a normal course if the punishment imposed is shockingly disproportionate it would be appropriate to direct the Disciplinary Authority or the Appellate Authority to reconsider the penalty imposed....."

(emphasis supplied)

"..... This Court in **Om Kumar v. Union of India** ((2001) 2 SCC 386), while considering the quantum of punishment/proportionality has observed that in determining the quantum, role of administrative authority is primary and that of Court is secondary, confined to see if discretion exercised by the administrative authority caused excessive infringement of rights. In the instant case, the authorities have not omitted any relevant materials nor has any irrelevant fact been taken into account nor any illegality committed by the authority nor was the punishment awarded shockingly disproportionate. The punishment was awarded in the instant case after considering all the relevant materials, and, therefore, in our view, interference by the High Court on reduction of punishment of removal was not called for....."

(emphasis supplied)

29. In Ram Saran vs. I.G. of Police, CRPF (2006 (1) Supreme 633 = (2006) 2 SCC 541), the Supreme Court held thus:

"..... THE Courts should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in (CA) *Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.*, (1948) 1 KB 223 : (1947) 2 All ER 680, (CA) commonly known as *Wednesbury's case* the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision. (See : *V. Ramana v. A.P.S.R.T.C.*, (2005) 7 SCC 338 : 2006 AILD 58 (SC))....."

(emphasis supplied)

30. *In Chairman & M.D. Bharat Pet. Corpn. Ltd. v. T.K. Raju* (2006 (2) Supreme 369 : 2006 AILD 147 (SC)), the Supreme Court held thus:

"..... THE power of judicial review in such matters is limited. This Court times without number had laid down that interference with the quantum of punishment should not be done in a routine manner. (*V. Ramana v. A.P.S.R.T.C.*, (2005) 7 SCC 338, and *State of Rajasthan v. Mohammed Ayub Naz*, 2006 (1) SCALE 79)....."

31. *The nature and extent of punishment to be imposed, for proved misconduct of a delinquent employee, is in employer's realm and the High Court would not sit in appeal over the choice made by the employer in this regard. In exercise of its powers of judicial review the High Court does not, normally, substitute its own conclusions, on the penalty imposed on a delinquent employee, for that of his employer, to impose some other penalty. It is only if the punishment imposed is one which could not have been imposed at all or is one which shocks its conscience would this Court appropriately mould the relief, either directing reconsideration of the penalty imposed or in exceptional and rare cases, to shorten the litigation, impose appropriate punishment with cogent reasons."*

(emphasis supplied)

In the instant case, having regard to the fact that both the disciplinary authority as well as appellate authority having found that the charge levelled against the petitioner is proved and further, as there is no explanation forthcoming from the petitioner with regard to the certification done by him during the month of September, 2008 i.e, for the period between 08.09.2008 and 13.09.2008, the punishment of "reversion to the substantive post of Deputy Superintendent (Mech) for a period of two years duly fixing the petitioner's pay at pre-promotion stage having effect on his future increments", imposed against the petitioner cannot be

said to be too harsh or disproportionate to the charge levelled. In view of the above circumstances, this Court is not inclined to interfere with the order dated 09.08.2010 passed by the respondent No.3/disciplinary authority, which was confirmed by the respondent No.2/appellate authority *vide* order dated 09.05.2011. Accordingly, this Writ Petition is devoid of merits and it is liable to be dismissed.

8. In the result, this Writ Petition is dismissed.

Consequently, miscellaneous petitions if any pending, shall stand closed. No order as to costs.

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SD/- G. SIREESHA
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. One CC to SRI A. SRINATH, Advocate [OPUC]
2. One CC to SRI THOOM SRINIVAS, (SC FOR TSRTC) [OPUC]
3. Two CD Copies

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ADK

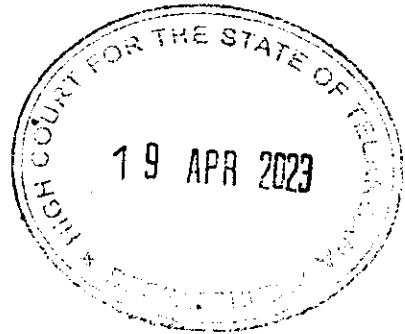
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HIGH COURT

DATED:08/02/2023

ORDER

WP.No.24415 of 2012



**DISMISSING THE WRIT PETITION
WITHOUT COSTS**

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Bsk
12/4/23