

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

**MONDAY, THE THIRTIETH DAY OF DECEMBER  
TWO THOUSAND AND TWENTY FOUR**

**PRESENT**

**THE HONOURABLE SHRI JUSTICE ANIL KUMAR JUKANTI**

**WRIT PETITION NOs: 17178 of 2014 and 17590 of 2016**

**WRIT PETITION NO: 17178 OF 2014**

**Between:**

M.S. Narayana, S/o late M. Narasimha, Aged about 45 years, Occ Conductor,  
E.200784 A.P.S.R.T.C, RNG-I, Depot, R/o.H.No. 8-1-292, Seethanagar  
Colony, Shaikpet, Golconda, Hyderabad.

**...PETITIONERS**

**AND**

1. The A.P.S.R.T.C. Rep. by its Vice Chairman and Managing, Bus Bhavan,  
RTC X Road, Hyderabad.
2. The Depot Manager, APSRTC, RNG-I Depot, Secunderabad.

**...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 any writ, order or direction more particularly one in the nature of writ of mandamus declaring that issuing of suspension order No. 02/95 (18)/14 RNG-I dated 13-05-2014 with reference to charge sheet dated 14-05-2014 that has not been issued to the petitioner, without conducting any prima facie investigation, without hearing the petitioner in person, without obtaining the explanation from the petitioner, without giving the reference of regulation under which regulation the suspension order is issued and not declaring suspension order is under pending enquiry is as illegal, unjust, contain, to law, violation of principles of natural justice by setting aside the suspension order, consequently directing the respondents to take the petition into service with all consequential benefits.

**I.A. NO: 1 OF 2014(WPMP. NO: 21511 OF 2014)**

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 suspend the suspension order No. 02/95 (18)/14 RNG-I dated 13-05-2014 pending disposal of the writ petition directing the respondents to take the petitioner into service forthwith.

**Counsel for the Petitioner: SRI SYED HUSSAIN**

**Counsel for the Respondents: Ms. D.SAI MAHITA, REP. FOR  
SRI R.ANURAG, SC FOR TGSRTC**

**WRIT PETITION NO: 17590 OF 2016**

**Between:**

M.S. Narayana, S/o late M. Narasimha, Aged about 45 years, Occ Conductor, E.No.200784 TSRTC, RNG-I depot, R/o H. No. 8-1-292, Seethanagar Colony, Shaikpet, Golconda, Hyderabad.

**...PETITIONER**

**AND**

1. The Vice Chairman and Managing Director, Telangana State Road Transport Corporation, Bus Bhavan, RTC X Road, Hyderabad.
2. The Depot Manager, TSRTC RNG-I Depot, Secunderabad.

**...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 any writ, order or direction more particularly one in the nature of writ of mandamus, declaring that issuing of termination order No. 02/95(18)12014 RNG-I dated 17-12-2015 served to the petitioner on 22-03-2016, during the pendency of the writ petition No. 17178 of 2014 filed for challenging the suspension order, without filing counter, without issuing enquiry notices, obtaining exparte enquiry report, without furnishing copy of the exparte enquiry report, without issuing show cause notice, without paying the subsistence allowance w.e.f June, 2016 to date of termination order, is as illegal, unjust, contrary to law, improper and violation of principles of natural justice by setting aside the termination order dated 17-12-2015, directing the respondent to

reinstate the petitioner into service forthwith subsequent passing order for all consequential benefits.

**I.A. NO: 1 OF 2016(WPMP. NO: 21612 OF 2016)**

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 suspend the termination order No. 02/95(18)/2014 RNG-I dated 17-12-2015 served on 22-03-2016 pending disposal of the writ petition, directing the 2nd respondent to take the petitioner into service forthwith.

**Counsel for the Petitioner: SRI SYED HUSSAIN**

**Counsel for the Respondents: Ms. D.SAI MAHITA, REP. FOR  
SRI R.ANURAG, SC FOR TGSRTC**

**The Court made the following: ORDER**

**THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

**WRIT PETITION No.17178 OF 2014 AND 17590 OF 2016**

**COMMON ORDER:**

W.P.No.17178 of 2014 is filed with the following prayer:

*"... to grant any writ, order or direction more particularly one in the nature of writ of mandamus declaring that issuing of suspension order No.02/95 (18)/14 RNG-I dated 13.05.2014 with reference to charge sheet dated 14.05.2014 that has not been issued to the petitioner, without conducting any prima facie investigation, without hearing the petitioner in person, without obtaining the explanation from the petitioner, without giving the reference of regulation under which regulation the suspension order is issued and not declaring suspension order is under pending enquiry is as illegal, unjust, contrary to law, violation of principles of natural justice by setting aside the suspension order, consequently, directing the respondents to take the petitioner into service with all consequential benefits and pass any such order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case, in the interest of justice."*

2. W.P.No.17590 of 2016 is filed with the following prayer:

*"... to issue any writ, order or direction more particularly one in the nature of writ of mandamus, declaring that issuing of termination order No.02/95 (18)/2014 RNG-I dated 17.12.2015 served to the petitioner on 22.03.2016, during the*

*pendency of the writ petition No.17178 of 2014 filed for challenging the suspension order, without filing counter, without issuing enquiry notices, obtaining ex parte enquiry report, without furnishing copy of the ex parte enquiry report, without issuing show cause notice, without paying the subsistence allowance w.e.f. June, 2016 to date of termination order, is as illegal, unjust, contrary to law, improper and violation of principles of natural justice by setting aside the termination order dated 17.12.2015 directing the respondent to reinstate the petitioner into service forthwith subsequent to passing order for all consequential benefits and pass any such order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case in the interest of justice."*

3. Heard Mr. Syed Hussain, learned counsel for petitioner, Ms. D. Sai Mahita, learned counsel representing Mr. R. Anurag, learned Standing Counsel for the respondent - Corporation.
4. Facts being similar in both the writ petitions, W.P.No.17590 of 2016 is considered for reference. Petitioner was appointed as Conductor in APSRTC - respondent Corporation on 03.11.1987, services were regularised w.e.f. 25.04.1988. A check was conducted on bus bearing AP 11Z 6420 on route No.10K on 19.04.2014 at stage No.8 of KP Point and found petitioner idling the

bus from 14:10 hours to 15:05 hours (i.e., 0.55 minutes) causing inconvenience to the passengers, was found without Statistics Return (for short 'SR').

5. A charge memo was issued on 13.05.2014, petitioner was placed under suspension, explanation submitted on 27.05.2014. Not satisfied, a domestic enquiry was ordered, Assistant Manager (T) SD was nominated as enquiry officer. Enquiry officer issued notices. Notices were returned with endorsements. Enquiry report was submitted on 17.01.2015 holding that the charge framed held to be proved. Enquiry report, 17.01.2015, sent by RPAD to petitioner on 11.02.2015, no explanation was offered. By order dated 17.12.2015 disciplinary authority removed petitioner from services. Said order is served on petitioner on 22.03.2016. No appeal is preferred under Regulation 22 of the APSRTC (Classification, Control and Appeal) Regulations, 1965 (for short, 'the Regulations'). Petitioner challenged the order of termination in W.P.No.17590 of 2016. Petitioner filed W.P.No.17178 of 2014 challenging the order of suspension dated 13.05.2014.

6. Learned counsel for petitioner submits that petitioner was appointed as a contract conductor and his services were regularised. That on 19.04.2014, a check was conducted, that petitioner along with his driver was having lunch at that time. It is further submitted that the lunch hour (for driver and conductor) is half-an-hour, at 2:15 in the afternoon. It is also submitted that the bus being kept in idling condition does not arise at all.

7. It is submitted that petitioner lost the SR and immediately on coming to the loss of SR, telephoned to Senior Traffic Inspector (for short 'STI') and informed about the loss. It is further submitted that STI was on leave on that day. Petitioner counsel relied on page No.22, annexed to W.P.No.17590 of 2016, wherein calls made from his mobile No.73828 23584 are mentioned. Petitioner submitted that on 19.04.2014 at 14:58 hours, he made a call from his mobile phone to STI bearing mobile number is 73828 22680. It is contended that petitioner has sufficient grounds to offer explanation for the charge framed against him. That in spite of the same disciplinary authority

imposed punishment of removal *vide* proceedings dated 17.12.2015.

8. Learned counsel contended that petitioner was not given an opportunity of presenting or defending his case and order being an *ex parte* order has to be set aside. Reliance is placed on the order of a learned Single Judge in W.P.No.23593 of 2016, dated 28.06.2022. Drawing attention of this Court to order in W.P.No.23593 of 2016, it is submitted that in the facts and circumstances of the present case, order in W.P.No.23593 of 2016 is applicable. That relief granted in W.P.No.23593 of 2016 be granted to petitioner.

9. Learned counsel for petitioner contended that petitioner submitted a change in address and that notices were sent to the old address. Due to non-service of notices, he could not attend enquiry.

10. Learned Standing Counsel appearing for respondent-Corporation submitted that when a check was conducted at stage No.8 and petitioner was found idling

the bus from 14:10 hours to 15:10 hours (00:55 minutes) causing inconvenience to passengers. That petitioner did not have the SR (a document to be carried by the conductor). It is further submitted that conductor was issued another SR bearing No.125/869201 for continuity of service by duly opening the Tray numbers. It is also submitted that the information of loss of SR was not communicated to the STI. It is pointed out that petitioner stated wrongly that on the day of loss of SR he informed STI/RNG-I. It is further pointed out that on that day STI/RNG-I was on leave as he was sick.

11. It is submitted that charge memo dated 13.05.2014 was issued to petitioner and placed under suspension. It is further submitted that explanation to charge memo was submitted on 27.05.2014. It is pointed out that disciplinary authority after considering the explanation, ordered for domestic enquiry, appointed Assistant Manager (T) SD as Enquiry Officer.

12. It is submitted that Enquiry Officer issued notices on three occasions. The first on 14.11.2014, returned

unclaimed on 02.12.2014, second notice issued on 01.12.2014 returned with endorsement "addressee left" and final notice on 15.12.2014 to petitioner, but, petitioner failed to attend the enquiry.

13. Learned Standing Counsel for respondent-Corporation submitted that enquiry officer submitted his report dated 17.01.2015 to disciplinary authority. Same was sent to petitioner vide registered post with acknowledgment due (for short 'RPAD') on 11.02.2015, that petitioner did not submit any explanation. That, as there was no explanation forthcoming, a show cause notice for removal was issued on 30.11.2015 through RPAD, for which petitioner did not submit explanation. That basing on the material available on record, order of removal from service dated 17.12.2015 was passed and communicated to petitioner on 22.03.2016. It is lastly contended that petitioner did not avail the remedy of appeal under Regulation 22 of the Regulations. It is pointed out that the order of removal dated 17.12.2015 was passed after

addressing three (3) notices. That there is no infirmity in the order of respondent-Corporation.

14. Heard learned counsels, perused the record and considered the rival submissions.

15. Petitioner was appointed as Conductor in respondent-Corporation on 03.11.1987, his services were regularised w.e.f. 25.04.1988. A check was conducted on 19.04.2014 at 14:10 hours on bus No.AP 11Z 6420 on route No.10K, at stage No.8 (KP Village) and found idling the bus from 14:10 hours to 15:05 hours (i.e., 0:55 minutes) causing inconvenience to travelling passengers. He was found without SR, hence another SR bearing No.125/869201, was issued and same was informed to STI/RNG-I.

16. A charge memo dated 19.04.2014 was issued, the following are reflected in the charge memo:

“Observed and checked your bus at 14:10 and found you are idling the bus from 14:10 hours to 15:05 hours i.e., 0:55 causing inconvenience to the intending traveling passengers, loss of revenue and image to the corporation.

You have tried to operate the service without conductor and also mingled with the conductor, with

an intention for trip curtailment and also phoned to the conductor, even after instructing you not to phone; and also gave wrong cell phone number even after knowing."

17. A charge sheet dated 13.05.2014 was issued and communicated, placing him under suspension vide proceedings dated 13.05.2014. The said charge is as follows:

"CHARGE:

For having found idling the Bus from 14.10 hours to 15.05 hrs (i.e., 0 55 mnts) on 19.14.2014 without SR. The TTIs issued another SR bearing No.125/ 869201 for continuation of service duly opening the Tray Nos and you have informed that you have lost the SR and the same was informed to STI/RNG-I which is not true, which constitutes serious misconduct under Regulation 28 (xxii) and 28 (xxxii) of APSRTC Employees (conduct Regulations, 1963."

18. Petitioner submitted explanation on 27.05.2014, not satisfied, disciplinary authority appointed enquiry officer. Enquiry officer addressed three notices dated 14.11.2014, 01.12.2014 and 15.12.2014 to the address mentioned by petitioner. A counter affidavit is filed in W.P.No.17590 of 2016 by the Law Officer - II of TSRTC. The following are the relevant paragraphs:

"6. It is submitted that the petitioner submitted explanation to the Charge Sheet on 27.05.2014. The 2<sup>nd</sup> respondent i.e., the Disciplinary Authority not convinced with the explanation, ordered for a domestic enquiry. Therefore, the Assistant Manager (T) SD was nominated as Enquiry Officer to conduct

detailed enquiry and submit report. Accordingly, the Enquiry officer issued notices on three occasions starting from 14.11.2014 which was returned unclaimed on 02.12.2014. Thereafter another notice was issued by the Enquiry Officer on 01.12.2014 intimating the date of enquiry, the same was also returned with an endorsement "addressee left. Finally, the Enquiry officer issued another notice on 15.12.2014 and the Petitioner failed to attend the Enquiry. Therefore, the Enquiry officer conducted detailed enquiry ex-parte and submitted report on 17.01.2015 holding that the charges against the Petitioner were held proved.

7. It is submitted that as per the procedure, the findings of the Enquiry officer's report dated 17.01.2015 were sent to the Petitioner vide RPAD on 11.02.2015, the Petitioner did not submit explanation. The Disciplinary Authority after considering the evidence and material available on record came to the provisional conclusion that the charges against the Petitioner were held proved and therefore a show cause notice for removal was issued on 30.11.2015 through RPAD. The Petitioner did not submit explanation."

19. On the basis of the evidence and material on record, disciplinary authority opined that, the charge framed to be proved. Show cause notice for removal from service dated 30.11.2015 was issued to petitioner calling for explanation. Petitioner did not offer any explanation and the order of removal was passed on 17.12.2015, said order was served on petitioner on 22.03.2016. No appeal was preferred.

20. From Ex.P8, it is observed that petitioner intimated change of address on 08.07.2015 to the Depot Manager,

Ranigunj, after submission of the enquiry report. Show cause notice i.e., Ex.P2, of removal from service dated 30.11.2015 was sent to the following address:

"To  
Sri M.S.Narayana, E.200784,  
Conductor, RNG-I DEPOT  
S/o. M. Narsimha,  
H.No.1-105, Hasmathpet,  
Bowenpally, Sec'bad-500011."

21. But in Ex.P8 address for communication is mentioned as below:

"My Address:  
M.Satyanarana,  
H.No.8-1-68/A/1/41,  
Vinayaka Nagar,  
Shaikpet,  
Golconda, Hyderabad - 500 008.  
Cell: 73828 23584."

22. There is an intimation of change of address for correspondence on 08.07.2015, the said letter is received in the office of Depot Manager on 08.07.2015, a stamp is observed on the letter. Show cause notice is dated 17.12.2015 much after the letter of change of address. Show cause notice for removal was sent to the old address not to the address mentioned in letter dated 08.07.2015. It can be inferred from the above facts that petitioner was not served with the show cause notice of removal from

service. This amounts to violation of principles of natural justice.

23. It is evident from the record that proceedings of Depot Manager dated 17.12.2015 of removal from service was sent by RPAD to the following address (to old address):

“Sri M.S.Narayana, E.200784,  
Conductor, RNG-I DEPOT  
S/o. M. Narsimha,  
H.No.1-105, Hasmathpet,  
Bowenpally, Secbad-500011.”

24. Contentions advanced on behalf of petitioner that he was having lunch from 2:15 P.M., allegedly, when bus was kept idling and that he lost SR and a substitute SR was given are considered by disciplinary authority and disciplinary authority concluded that the charge stood proved and the order of removal from service was passed.

25. Learned counsel for petitioner placed reliance on the order dated 28.06.2022 passed in W.P.No.23593 of 2016, wherein, an *ex parte* enquiry was conducted and petitioner was imposed the punishment. Relevant portion at paragraph No.8 of the order dated 28.06.2022 reads as follows:

"... This court therefore, is of the opinion that the respondents have not been fair in conducting the ex parte enquiry and thereafter terminating the services of the petitioner. Even otherwise, this court also feels that the punishment of termination for the alleged offence for which the petitioner has been charged is excessive."

26. Learned counsel for petitioner insisted upon a similar order as in W.P.No.23593 of 2016. The facts and circumstances of the case relied upon by the petitioner counsel are not similar to the case on hand.

27. Show cause notice of removal should have been communicated to the new address, but, is sent to the old address. Order of removal at Page No.14 is also sent to old address. Contentions advanced in this regard cannot be brushed aside. There is no service of show cause notice of removal from service. Principles of Natural Justice are violated, apparently no opportunity to offer an explanation is forthcoming. Order of removal from service cannot be sustained. Order is liable to be set aside for violation of principles of natural justice.

28. Writ petitions are of the years 2014 and 2016. Petitioner was removed from service in December, 2015.

For nine years, petitioner is out of service. In the facts and circumstances of the case for the allegation of idling of the bus for 55 minutes and loss of SR, the order of punishment imposed, of removal from service, is disproportionate to the gravity of the charge levelled.

29. It is settled law that by exercising the power of judicial review under Article 226 of the Constitution of India, cannot impose punishment. It is the exclusive domain of disciplinary authority to impose a proportionate, appropriate punishment, basing on the findings of enquiry report and on considering the entire material on record.

30. In ***Union Of India & Ors v. P.Gunasekaran***<sup>1</sup>, the Hon'ble Apex Court held as follows:

"The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether:

- a. the enquiry is held by a competent authority;
- b. the enquiry is held according to the procedure prescribed in that behalf;
- c. there is violation of the principles of natural justice in conducting the proceedings;
- d. the authorities have disabled themselves from reaching a fair conclusion by some

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<sup>1</sup> (2015) 2 SCC 610

- considerations extraneous to the evidence and merits of the case;
- e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;
  - f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
  - g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;
  - h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
  - i. the finding of fact is based on no evidence.

Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) re-appreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence;
- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based;
- (vi) correct the error of fact however grave it may appear to be;
- (vii) go into the proportionality of punishment unless it shocks its conscience."

31. In the facts and circumstances of the case, this Court finds favour with the submission advanced for a lesser punishment. On the ground of proportionality of punishment too, the order of removal is liable to be set aside, as the punishment of removal is disproportionate.

32. For the reasons stated above, order of removal dated 17.12.2015 is set aside. Respondent-Corporation is directed to consider the case of petitioner afresh. Petitioner shall make a representation within a period of Fifteen (15) days from the date of receipt of a copy of this order. On such representation, the respondent-Corporation shall afford an opportunity and take a judicious rational approach. Needless to state that the representation shall be disposed of within a period of Twelve (12) weeks from the date of receipt of a copy of representation.

33. W.P.No.17590 of 2016 is accordingly allowed by setting aside the removal order and consequently, W.P.No.17178 of 2014 also stands allowed.

Miscellaneous petitions, if any, pending, shall stand closed.

//TRUE COPY//

SD/-T. TIRUMALA DEVI  
DEPUTY REGISTRAR

SECTION OFFICER

To,

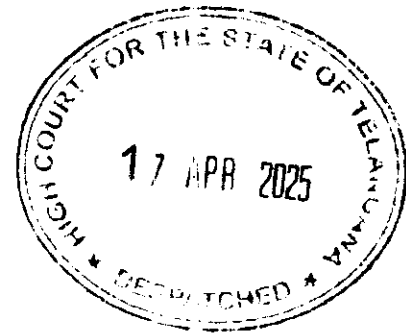
1. The Vice Chairman and Managing Director, Telangana State Road Transport Corporation, Bus Bhavan, RTC X Road, Hyderabad.
2. The Depot Manager, TSRTC RNG-I Depot, Secunderabad.
3. One CC to SRI SYED HUSSAIN, Advocate [OPUC]
4. One CC to SRI R.ANURAG, SC FOR TGSRTC [OPUC]
5. Two CD Copies

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**HIGH COURT**

**DATED: 30/12/2024**



**COMMON ORDER**

**WP.Nos.17178 of 2014 & 17590 of 2016**

**ALLOWING BOTH THE WRIT PETITIONS,  
WITHOUT COSTS**

⑦ MT  
17/4/26