



**HIGH COURT OF ANDHRA PRADESH**  
FRIDAY ,THE FOURTEENTH DAY OF JUNE  
TWO THOUSAND AND NINETEEN

**PRESENT**

**THE HONOURABLE SRI JUSTICE G. SHYAM PRASAD**

**WRIT PETITION NO: 2335 OF 2019**

**Between:**

1. A SIVA NAGESWARA RAO Conductor in APSRTC, R/o. Pedavadlapudi, Mangalagiri Mandal, Guntur district.

**...PETITIONER(S)**

**AND:**

1. THE STATE OF AP rep by its Vice Chairman and Managing Director, PNBS, vVjayawada, Krishna District.
2. The Regional manager APSRTC, Guntur, Guntur District
3. The Depot manager APSRTC, Mangalagiri, Guntur district

**...RESPONDENTS**

**Counsel for the Petitioner(s): M PITCHAIAH**

**Counsel for the Respondents: P DURGA PRASAD SC FOR APSRTC**

**The Court made the following: ORDER**



2019:APHC:15822

**IN THE HIGH COURT OF ANDHRA PRADESH  
(Special Original Jurisdiction)**

FRIDAY, THE FOURTEENTH DAY OF JUNE  
TWO THOUSAND AND NINETEEN

**PRESENT**

**THE HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

**WRIT PETITION NO: 2335 OF 2019**



**Between:**

Aniseti Siva Nageswara Rao, S/o. Appaiah, aged about 49 years, Occ: Conductor in APSRTC, R/o. Pedavadlapudi, Mangalagiri Mandal, Guntur district.

**...PETITIONER**

**AND**

1. The Andhra Pradesh State Road Transport Corporation, rep by its Vice Chairman and Managing Director, PANDIT Nehru Bus Station, Vjayawada, Krishna District.
2. The Regional Manager, APSRTC, Guntur, Guntur District
3. The Depot Manager, APSRTC, Mangalagiri, Guntur district

**...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 direction more particularly one in the nature of Writ of Mandamus declaring the suspension order bearing vide APSRTC No.M1/114(01)/2019-MNGL, dt.11-02-2019 as arbitrary, illegal and violative of Articles 14 and 21 of Constitution of India and circulars of APSRTC, and consequently set aside the same direct the respondents to reinstate the petitioner with continuity of service back wages, and all other attendant benefits with interest of @ 12% per annum grant costs of the proceedings.

**IA NO: 1 OF 2019**

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 grant interim suspension of the impugned order of the 3rd respondent vide APSRTC No.M1/114(01)/2019-MNGL, dt.11-02-2019 pending disposal of the above writ petition.

**Counsel for the Petitioner: SRI. M PITCHAIAH**

**Counsel for the Respondents: SRI. P. DURGA PRASAD, SC FOR APSRTC**

**The Court made the following: ORDER**



**HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

**WRIT PETITION NO.2335 OF 2019**

**ORDER:**

This is a Writ of Mandamus filed by the petitioner for declaring the suspension order bearing vide APSRTC No.M1/1140(01)/2019-MNGL, dated 11-02-2019 as illegal and arbitrary.

2. Heard the arguments of the learned counsel for petitioner and learned Standing Counsel for APSRTC at the stage of admission on the consent of both the counsel.

3. The brief facts are that the petitioner, while working as a Conductor in APSRTC, was suspended from service on the complaint of a passenger for his misbehaviour. The Corporation ordered enquiry against him and a criminal case is also pending against the petitioner. The brief contents of charge sheet discloses that the writ petitioner, while working as a Conductor in Mangalagiri Depot, had misbehaved with a passenger namely Smt.Rajasree while she was travelling in the bus bearing No.AP 07 Z 0201 on 22-01-2019 from Mangalagiri to Pedavadlapudi, and on her complaint, the police registered a case against him and filed charge sheet. The petitioner was placed under suspension.

4. Learned counsel for the petitioner submits that the action of the respondents is arbitrary and discriminatory which is in violation of Article 14 of the Constitution of India. In case of other employees, the respondents have not placed under suspension for similar offences of misbehaviour with woman passengers, but in the case of the petitioner, they placed him



under suspension though the circular says that the suspension is not warranted.

5. The submission of the counsel for the petitioner is that the order of suspension made by the Corporation is against the circular orders issued by them. As per the circular orders, in a case of misbehaviour with women passenger, suspension is not warranted.

6. The learned counsel further submits that in similar cases of misbehaviour, the Corporation passed orders, but in no case, the delinquent was placed under suspension. As per the Guideline 7.2.1 under major offences, in case of employee misbehaviour with women passengers, suspension of employee is not warranted. The counsel for the petitioner placed reliance on the said circular bearing No.PID01/2019, dated 01-01-2019 at page No.13 Serial No.6.5 and submitted that as per the rule, in case of misbehaviour with women passengers, suspension of employee is not warranted.

7. The statutory provisions relating to suspension and disciplinary action against the employees in APSRTC are contained in APSRTC Classification Control and Appeal Regulations Act, 1967, of which Regulation 8 is relevant. The relevant regulation reads as under:

“Regulation-8 of the said Regulations reveals that the appointing authority or any authority to which it is subordinate or any other authority authorised by the Corporation in that behalf by resolution may subject such conditions or limitation if any as may be specified place an employee under suspension from the service,

- a. pending investigation or enquiry into grave charges where such suspension is necessary in the public interest,
- b. where any criminal offences under investigation or trial.



As per the Circular, the following procedural guidelines have been followed consequent to number of brainstorming sessions among the senior officers and feedback from the unions of APSRTC.

- i) All types of offences are categorized into minor or major offences and the punishments proposed for such offences or standardized as furnished in Annexure-I.
- ii) An offence Rating Scale is designed with points assigned to each type of minor offence.
- iii) For each minor offence committed by the employee, points as earmarked on the Offence Rating Scale would be awarded on the "Score Sheet" as shown in the Annexure-III.
- iv) The Score Sheet will be filed in the P Case of the employee concerned and must be updated as and when any minor offence reported duly awarding points as indicated in the Offence Rating Scale and the cumulative score shall be recorded.
- v) Cases need not be open for each and every minor offence. On reaching or crossing and accumulated score of 6 points, a consolidated charge sheet shall be issued with at least one charge framed for each of the offences committed. The Consolidated charge sheet may contain charges for different types of offences. The subject head under which the case has to be opened will be based on the gravest of all the offences committed up to that point of time.
- vi) Once the disciplinary cases initiated on all the minor offences committed up to that point of time, the scoring shall start afresh for the subsequent offences.
- vii) The sub-classification of minor and major offences and the proposed punishments are given in Annexure-II.
- viii) All the cases of minor punishments shall invariably be disposed of within one month from the date of submission of explanation by the employee. If the employee does not submit his/her explanation within the stipulated time, it shall be deemed that he/she has no explanation to offer and the case shall be disposed of within one month from the date of completion of the stipulated time.
- ix) In all the cases of major punishment, final order shall be passed within one month from the date of submission of explanation by the employee to show cause notice. If the employee does not submit his/her explanation within the stipulated time, it shall be deemed that he/she has no explanation to offer and the case shall be disposed of within one month from the date of completion of the stipulated time.
- x) Further, all the Appeal, Review and Mercy petitions shall be disposed of by the competent authority within one month from the date of receipt of the representation from the employee concerned.
- xi) Appeal/review/mercy petitions received from now onwards on punishments already awarded shall also be disposed of by the competent authority concerned according to the instructions issued in this circular, if such appeals are not time barred.

These instructions will supersede all the other instructions issued in earlier circulars and shall be implemented with immediate effect.

"The offences listed in an extent to are not exhaustive and if any offence that is not specifically covered is reported, it shall be dealt with as per the gravity duly transferring the same as minor or major".

The executive directors and original managers shall monitor the disposal of disciplinary cases during their inspections and review meetings to ensure that the instructions are implemented uniformly by the unit officers.

All the unit officers are advised to educate the crew and the unions regarding these modified instructions on the various offences on the punishments to be imposed, by conducting gate meetings".



8. Learned counsel for the petitioner mainly argued that suspension of the petitioner is not warranted even as per circular PD 01/2019, dated 01.01.2019, issued by the Corporation in case of misbehavior with women passengers.

9. Learned Standing Counsel for APSRTC submits that the petitioner has misbehaved with the women passenger and even after filing of charge sheet against him, he threatened the sister of the woman passenger to withdraw the case. It is further submitted that the circular was only intended as a guideline, but not exhaustive nor can be made applicable in the facts of the present case.

10. It is further submitted that the Corporation felt that it was a case of gross misconduct on the part of the petitioner and therefore, they placed him under suspension and proceeded to conduct enquiry. In fact, the decision taken by the Corporation by placing the petitioner under suspension is only in the interest of the institution in order to secure the safety of the woman passengers.

11. The learned Standing Counsel for the respondent placed reliance on a decision reported in **M.Swamynadhan vs. Chairman and Managing Director, SIDCO**, (1988 WLR 41) with regard to the scope and jurisdiction of this Court under Article 226 of the Constitution of India in a matter like suspension. Para No.8 reads as under:

“Before parting with this case, we would like to make it clear that the jurisdiction under Article 226 of the Constitution of India should not be freely exercised in matters of suspension pending or any contemplation of disciplinary proceedings. We find to our consternation that a tendency has recently developed on the part of the employees to rush to this Court with petition under Article 226 of the Constitution of India against such orders of suspension and such petitions are very often entertained. In our



view, unless an order of suspension is invalid in law either for want of competence on the part of the authority passing the same or for violation of any specific rule, the High Court should not entertain writ petitions against such orders of suspension. It is high time that the litigants are told in unequivocal terms that the High Court will not sit any appeal over the orders of suspension passed by competent authorities. The writ petitions in which the merits of the orders of suspension are canvassed on the basis of factual allegations shall not be entertained and other shall be thrown out at the threshold. It must be remembered that the High Court cannot go into the question whether the order of suspension is passed on proper materials”

12. In the light of the above decision, it is obvious that the Court cannot sit in an appeal over the disputed question of facts. The questions of fact whether order of suspension was based on proper material or not, Court be gone into under writ jurisdiction. The alleged discrimination between the petitioner and others is also not established satisfactorily. In fact, the petitioner is alleged to have threatened the sister of the *de facto* complainant to withdraw the case.

13. It is also pertinent to note that the reputation of the Corporation is at stake due to the alleged mis-behaviour of the petitioner. It is not only a case of misbehavior, but also threatening the sister of the victim to withdraw the case after ordering enquiry against him.

14. In view of the facts and circumstances of the case, this Court is not inclined to go into the merits of the allegations made against the petitioner in the charge sheet or in the departmental enquiry.

15. I am of the view that this case cannot be considered as similar to other cases.

16. As a matter of fact as per the circular issued by the Corporation, the competent authority has to complete the enquiry within a period of one month from the date of suspension, but in the instant case, it appears that the enquiry has not yet been



completed. Though the petitioner has not sought for any relief of completion of enquiry expeditiously as per the rules and guidelines, this Court is of the opinion that the competent authority has to expedite the enquiry by following their own guidelines.

17. The discrimination, arbitrariness nor malafide action on the part of the Corporation is not proved by any satisfactory material.

18. In the result, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

//TRUE COPY//

Sd/- M. RAMESH BABU  
ASSISTANT REGISTRAR

*[Signature]*  
SECTION OFFICER

One Fair copy to the Hon'ble Sri Justice GUDISEVA SHYAM PRASAD  
(For His Lordships Kind Perusal)

To,

1. 9 LR Copies
2. The Under Secretary, Union of India, Ministry of Law, Justice and company Affairs, New Delhi.
3. The Secretary, Advocates Association Library, High Court of Andhra Pradesh.
4. One CC to Sri. M. Pitchaiah, Advocate (OPUC)
5. One CC to Sri. P. Durga Prasad, SC for APSRTC (OPUC)
6. Two CD Copies.

PM

*[Signature]*



HIGH COURT

DATED:14/06/2019



2019:APHC:15822

18/7/2019

OC

Rs. 10/-50

ORDER

WP.No.2335 of 2019

(7)

Dismissing the WP

Without costs.

$\frac{17}{T-2}$  27/6/2019