

(2008) 06 AP CK 0007

Andhra Pradesh High Court

Case No: Writ Petition No. 12232 of 2008

M.T. Rao

APPELLANT

Vs

Andhra Pradesh State Road
Transport Corporation,
Vizianagaram Region and
Another

RESPONDENT

Date of Decision: June 20, 2008

Citation: (2008) 5 ALD 10 : (2008) 5 ALT 650 : (2008) 119 FLR 122

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: G. Vidyasagar, for the Appellant; C. Appaiah Sarma, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.

The petitioner was employed as a Driver in Parvathipuram Depot of A.P.S.R.T.C. On 4.3.2007, when he was driving bus No. AP 10 26255, an accident occurred at 7.30 p.m. at Mudidam Village near Vizianagaram. A motor cyclist is said to have hit a cyclist, who took a wrong turn, and he together with the pillion rider are said to have come under the wheels of the bus. A charge-sheet, dated 29.3.2007, was issued to the petitioner. He attained the age of superannuation on 31.3.2007. Inasmuch as the charge-sheet was issued before he retired, the disciplinary proceedings continued. An Enquiry Officer was appointed and he submitted a report, holding that the petitioner is guilty of the charge framed against him. Ultimately, through an order, dated 21.9.2007, the 2nd respondent imposed the punishment of reduction of pay of the petitioner by one incremental stage with cumulative effect. The same is challenged in this writ petition.

2. Sri G. Vidyasagar, learned Counsel for the petitioner submits that even according to the preamble in the charge-sheet, the fault was that of the cyclist and nothing

was attributed to the petitioner, for the accident. He contends that by the time the impugned order was passed, the petitioner retired from service and the question of reducing his pay by one incremental stage does not arise. Learned Counsel also submits that the impugned order cannot have any effect upon the retirement benefits of the petitioner.

3. Sri C. Appaiah Sarma, learned Standing Counsel for the respondents, on the other hand, submits that the disciplinary proceedings were initiated, before the petitioner retired, and thereby, he shall be deemed to be in service till the impugned order is passed, in the limited context. He contends that if the petitioner feels aggrieved by the impugned order, he has to avail the remedy of appeal.

4. In the ordinary course, the petitioner is to be required to avail the departmental remedies of appeal and review. Even if he is not satisfied with the outcome thereof, he has to approach the Labour Court, under the relevant provisions of law. This case, however, presents a peculiar situation. Though the learned Counsel for the petitioner advanced arguments, touching upon the correctness of the findings on the charge framed against the petitioner, this Court is not inclined to deal with the same. The 2nd respondent accepted the report of the Enquiry Officer and inflicted the punishment of reduction of pay of the petitioner by one incremental stage with cumulative effect.

5. The punishment of the nature, referred to above, would carry any meaning, if only an employee is in service. It does not result in any recovery of the amount, which has already been earned by the employee in the form of emoluments. Once the petitioner had retired from service, punishment of reducing his basic pay by one incremental stage is almost a futile exercise. The 2nd respondent does not appear to have realized this and had imposed the punishment in routine manner. Therefore, even if the impugned order is permitted to remain in force, it would not have any effect upon the retirement benefits of the petitioner.

6. Hence, the writ petition is disposed of, directing that notwithstanding the punishment imposed against the petitioner, through the impugned order, dated 21.9.2007, the respondents shall release all the retirement benefits to the petitioner, without any deductions, on the basis of the said order.

7. There shall be no order as to costs.