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Andhra Pradesh High Court

Case No: Writ Petition No. 15563 of 2008

M. Sunkanna	APPELLANT
Vs	
Andhra Pradesh State Road Transport Corporation and Another	RESPONDENT

Date of Decision: July 23, 2008

Citation: (2008) 5 ALD 623

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: Venkata Ramaiah Karumuri, for the Appellant; W.V.S. Rajeswari, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.
The petitioner was working as a Depot Manager, Rayachoti. He retired from service with effect from 30.6.2008. The second respondent initiated disciplinary action against the petitioner by issuing a charge-sheet, dated 2.5.2008. He has also placed the petitioner under suspension, vide orders, dated 9.3.2008. A departmental enquiry was conducted and a report was submitted on 21.6.2008. The second respondent got displayed a show-cause notice, dated 21.6.2008, in the office of the Depot. The petitioner was on sick leave from 27.6.2007 onwards. Alleging that the petitioner did not respond to the show-cause notice, the second respondent passed a final order, dated 29.6.2008, imposing the penalty of reduction of his basic pay by one incremental stage which shall have the effect on computation of remaining benefits. The same is challenged in this writ petition.

2. The petitioner contends that even when he was issued a charge-sheet, dated 2.5.2008, he submitted a representation with a prayer to furnish a copy of the preliminary enquiry report and in response to the same, only an illegible copy was supplied. It is stated that his representation, dated 29.5.2008, did not yield any result and the enquiry itself was conducted without giving any opportunity to him to submit explanation. He takes exception to the subsequent proceedings also.

3. The Law Officer of the Corporation filed a counter-affidavit stating that the charges of serious nature were framed against the petitioner and he did not co-operate at any stage in the proceedings. He contends that the impugned order does not warrant interference.

Heard Sri K. Venkataramaiah, the learned Counsel for the petitioner and Smt. W.V.S. Rajeswari, the learned Standing Counsel for the respondents.

4. The disciplinary proceedings against the petitioner commenced with the service of a charge-sheet, dated 2.5.2008. The charge-sheet was based upon a preliminary enquiry report, dated 25.10.2007. On receipt of the charge-sheet, the petitioner submitted a representation to the second respondent with a request to furnish a copy of the preliminary enquiry report, dated 25.10.2007. It was furnished only on 26.5.2008, but in a very shabby form. Thereupon, the petitioner submitted a representation, dated 29.5.2008, with a request to furnish a better copy and to extend the time for submission of explanation by 15 days. This request was turned down by the second respondent, vide letter, dated 9.6.2008. The result was that there was no explanation submitted by the petitioner. In such an event, the very appointment of the Enquiry Officer, much less conducting of domestic enquiry becomes questionable. The reason is that the necessity to conduct domestic enquiry would arise, if only, the delinquent employee denies the charges levelled against him. The charge-sheet itself contains a clause to the effect that if no explanation is received, the charges shall be deemed to have been proved. Therefore, the appointment of the Enquiry Officer or the conducting of enquiry and thereby, the consequential submission of an enquiry report becomes untenable.

5. Be that as it may, on the strength of the report of the Enquiry Officer, the second respondent issued a show-cause notice, dated 21.6.2008. Admittedly, it was not served upon the petitioner. It was only displayed in the office of the Depot. On coming to know the same, the petitioner, who was on sick leave at the relevant point of time, submitted a representation, dated 28.6.2008, with a prayer to make him available the copy of the show-cause notice. Even this did not evoke any response and the impugned order was passed in a hurry on 29.6.2008, obviously with a view to inflict the punishment upon the petitioner before he retires from service.

6. This Court is of the view that the proceedings initiated against the petitioner suffer from more infirmities than one. It is not as if that the acts or omissions on the part of the petitioner were noticed at a time when he was about to retire. The preliminary enquiry report itself was submitted way back on 25.10.2007 and the second respondent took

about six months time to issue a charge-sheet. Once the charge-sheet was issued, he proceeded with undue haste and denied opportunity to the petitioner to submit explanation either to the charge-sheet or to the show-cause notice. The departmental enquiry was reduced to an empty formality.

7. Therefore, the writ petition is allowed and the impugned order, dated 29.6.2008, is set aside. There shall be no order as to costs.