

(1998) 07 AP CK 0028

Andhra Pradesh High Court

Case No: Writ Petition No. 8875 of 1996

K. Laxman

APPELLANT

Vs

Deputy Chief Traffic Manager,
APSRTC, Nizamabad and Others

RESPONDENT

Date of Decision: July 23, 1998

Acts Referred:

- Andhra Pradesh State Road Transport Corporation Employees (Classification, Control and Appeal) Regulations, 1967 - Regulation 11, 18
- Constitution of India, 1950 - Article 311

Citation: (1998) 5 ALD 202

Hon'ble Judges: B.S. Raikote, J

Bench: Single Bench

Advocate: Mr. S. Lakshma Reddy, for the Appellant; Mrs. A. Vijayanthi, SC for APSRTC, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. Heard. The petitioner has challenged the impugned order of suspension dated 12-4-1996 on the ground that the authority who passed the order i.e. Deputy Chief Traffic Manager, Nizamabad, is not competent to pass this order. Therefore, the order is liable to be set aside.

2. It is to be noted at this stage itself that earlier the petitioner was suspended by Depot Manager, Armour Depot, on the ground that the Depot Manager Nizamabad under whom the petitioner was working as conductor himself was the complainant, that order was challenged in W.P.No.5211/96. This Court, after examining the Regulation 18 found that the order of suspension passed by the Depot Manager, Armour, was one without jurisdiction since the Depot Manager Annoor was not an authority to which the Depot Manager, Nizamabad, was subordinate in terms of Regulation 18. Accordingly, this Court quashed the said order by allowing writ

petition No. 5 211/96 vide judgment and order dated 15-3-1996. Thereafter, the impugned order of suspension was passed by the Deputy Chief Traffic Manager, Nizamabad.

3. The Petitioner has now challenged the said order of the Deputy Chief Traffic Manager, Nizamabad, dated 12-4-1996 on the ground that the Deputy Chief Traffic Manager, Nizamabad, absolutely has no jurisdiction to pass this order, The learned Counsel appearing for the petitioner contended that the Depot Manager of Nizamabad, is not the authority subordinate to the Deputy Chief Traffic Manager, Nizamabad. He elaborated his arguments contending that the petitioner is appointed by the Depot Manager, Nizamabad. Therefore, either he is competent or the authority to which this Depot Manager is subordinate is competent. But, the Deputy Chief Traffic Manager, who has now passed the order of suspension is not competent. On the other hand, learned Counsel appearing for the respondent Corporation contended that Deputy Chief Traffic Manager, Nizamabad, is competent. He elaborated his argument by contending that earlier designation of the post of Deputy Chief Traffic Manager is Senior Manager (Operations). In other words, according to him Senior Manager (Operations) is now re-designated as Deputy Chief Traffic Manager. However, learned Counsel for the Petitioner disputes this fact. But, in my opinion when a statement is made by the Counsel appearing for the Corporation, that the post of Senior Manager (Operations) is now re-designated as Deputy Chief Traffic Manager, Nizamabad, there is no reason why it should be disbelieved. In this view of the matter, I have to take that the designation of Senior Manager (Operations) is now re-designated as Deputy Chief Traffic Manager. It cannot be disputed that the Deputy Chief Traffic Manager is superior in rank to the post of Depot Manager. However, the learned Counsel for the petitioner submits that the Depot Manager is not administratively subordinate to him and he is subordinate only to the Regional Manager and not to the Deputy Chief Traffic Manager.

4. To appreciate this kind of argument, I have to note Regulations 11 and 18 of the Andhra Pradesh State Road Transport Corporation Employees (Classification Control and Appeal) Regulations, 1967. Regulation 11 provides that the disciplinary proceedings may be initiated either by the appointing authority or by an authority to which the appointing authority is subordinate or any authority authorised in that behalf by the Corporation by a resolution. Regulation-18 is almost to the same effect so far as the order of suspension is concerned and it also says that the appointing authority or any authority to which it is subordinate or any other authority authorised by the Corporation in that behalf by a resolution by the Corporation, may place an employee under suspension from service. Therefore, the short point that requires to be considered is the phrase in Regulations 11 and 18 which says "any authority to which it is subordinate". The intendment of Regulations 11 and 18 is that no authority subordinate to the appointing authority shall place a person under suspension similar to the principle found under Article 311 of the Constitution of

India. Article 311 provides that no civil servant shall be dismissed or removed by an authority subordinate to that by which he was appointed. The same principle appears to have been adopted by the respondent Corporation in Regulations 11 and 18. From this it follows that any authority, who is superior in rank to the appointing authority; is empowered to suspend an employee. It is not necessary that such authority should be an authority to which the appointing authority is immediately administratively subordinate. The fact that the Deputy Chief Traffic Manager, Nizamabad, who has now passed the order, is superior to the Depot Manager, Nizamabad, is not disputed. If that is so, the Deputy Chief Traffic Manager is Superior in rank and grade to the Depot Manager. Both of them are working in Nizamabad and it cannot be said that the Depot Manager is not subordinate to the Deputy Chief Traffic Manager even administratively also. The system always works in a hierarchy. Therefore, it is not always possible to trace immediate subordinate to any particular officer, In this view of the matter in my opinion the Deputy Chief Traffic Manager, Nizamabad, being an authority over and above in the rank of Depot Manager, is competent to pass the order of suspension. Even otherwise, from circular dated 8-11-1994, vide No.BI/225/(5)/94-BS, issued by the respondent Corporation, on the basis of the Board resolution No.155/94 dated 20.10.1994, it is clear that the Senior Manager (Operation), now redesignated as Deputy Chief Traffic Manager has been conferred with the powers of the appellate authority in the disciplinary matters initiated by the Depot Manager. The said clause reads as under : "8. He shall be an Appellate authority for all disciplinary matters initiated by Depot Managers in respect of all employees working in traffic wing of all units of the Region."

From this circular it is clear that regarding the disciplinary matters, the Depot Manager, who is the appointing authority for the Conductors is an authority subordinate to the Deputy Chief Traffic Manager, In this view of the matter, I do not find that the impugned order suffers from lack of jurisdiction.

5. Though in para 2 allegations are made that the order of suspension is passed with mala fides, but on the basis of the allegations made in para-2, I do not think that there is any mala fide on the part of authorities in initiating the disciplinary proceedings. For the above reasons, I do not find any merits in this writ petition and it is dismissed. In the circumstances, without costs.