

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

**AND**

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

**W.A.No. 1062 OF 2017**

**DATED 31<sup>ST</sup> JULY, 2017**

Between:

The Telangana State Road Transport Corporation  
(Prior to bifurcation known as Andhra Pradesh  
State Road Transport Corporation),  
Rep. by its Depot Manager,  
Kamareddy Bus Depot,  
Kamareddy, Nizamabad District

... Appellant

AND

Abid Ali

... Respondent

Counsel for the appellant

:

Sri N.Vasudeva Reddy

Counsel for the respondent

:

Sri S.Chandra Sekhar

THE COURT MADE THE FOLLOWING

**JUDGMENT:** (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Appeal arises out of order dated 17-01-2017 in W.P.No. 6193 of 2007.

2. We have heard learned counsel representing Sri N.Vasudeva Reddy, learned standing counsel for the appellant, and perused the record.

3. The respondent was a mechanic working in the appellant corporation. He, along with six others including Ch.Narsimhlu, driver, was charged of 'stealing scrap belonging to the corporation' by way of two separate charges which read as under:

- "1. For having stolen the APSRTC materials detected in the bus No. AEZ 2642 at Zonal Workshop premises on 24-02-1999 at about 22.30 hours, after handing over the scrap vehicles, in connivance with 1. Sri K.V.Raju, E-334266, Cleaner; 2. D.Rajender, E-63064; 3. K.Suresh, E-33442, Mechanic; 4. I.Swamy, E-334340, Mechanic; 5. Ch.Narsimulu, E-103190, Driver and 6. A.M.Reddy, E-66911, Mechanic of Kamareddy depot with a mala fide intention to make wrongful gain out of Corporation property which is a serious misconduct in terms of Reg. NO. 28 (x) of APSRTC Employees (Conduct) Regulations, 1963.
2. For having escaped from the spot while checking the theft material in bus No. AEZ 2642 by the Security Personnel at 22.30 hours on 24-02-1999 which is a serious misconduct under Reg. 4 (3) of APSRTC Employees (Conduct) Regulations, 1963" and Regulations 28 (xxii) of APSRTC Employees (Conduct) Regulations, 1963."

The appellant has also simultaneously proceeded against the respondent and other delinquents by filing a criminal complaint which was registered as C.C.No. 261 of 1999 by the learned Additional Judicial Magistrate of I Class,

Karimnagar. The said criminal case ended in conviction of the respondent and all other delinquents. However, Criminal Appeal No. 69 of 2002 filed by the respondent, who was accused No. 7 in the criminal case, was allowed by the learned Sessions Judge, Karimnagar, by extending benefit of doubt.

4. As regards the departmental enquiry, the enquiry officer submitted a report finding the respondent guilty of both the charges which resulted in removal of the respondent on 30-11-1999. Challenge to the removal order by the respondent failed upon the Labour Court passing nil award. The main ground on which the removal of the respondent was challenged in the Writ Petition is that though common charges were framed against all the delinquents including the driver Ch.Narsimulu, the latter's removal was set aside by the Labour Court by award dated 02-11-2002 in I.D.No. 218 of 1999 and that the respondent being similarly situated, the Labour Court ought not to have taken a different view.

5. It was argued on behalf of learned counsel for the appellant that the respondent has failed to plead the fact of relief granted to Ch.Narsimulu before the Labour Court and that therefore the case of the respondent was examined as a stand alone case.

6. The learned single judge has examined the merits of the case and observed that it is clear from the statement of the security guard, one of the witnesses examined by the enquiry officer, that the respondent was at the vehicle bearing No. 5507 but not at the vehicle bearing No. AEZ 2642 even by the time he went to call the Works Manager and that even the evidence of the next witness on a plain perusal would show that he found the excess material from the bus bearing No. AEZ 2642 of Karimnagar Depot; that the on duty security guard *i.e.* the first witness asked him to stay at the vehicle and went

away to call the Works Manager; that in the presence of Works Manager when the gate pass was verified at the vehicle, they found the excess material and that while the statements of other witnesses were being taken and when the respondent was asked to produce his identity card, he escaped from the spot. The learned single judge further observed that thus, the witness did not state that the respondent was found either in the bus along with the stolen material or that the stolen material was recovered from him. Accordingly, he has concluded that the evidence does not disclose any incriminating material to come to a conclusion that the respondent was responsible for the theft and that the charges leveled against him stand proved. Referring to the parameters of interference by the Court with the orders passed in disciplinary proceedings in ***Union of India Vs. P.Gunasekaran***<sup>1</sup>, the learned single judge held that the findings of guilt of the respondent were not based on any legal evidence, a ground on which the Court was held entitled to interfere with the orders passed in disciplinary proceedings. The learned single judge also held that in the case of Ch.Narsimulu, the Labour Court has allowed the I.D. and that as the respondent was not diligent, his case was dismissed for default and after lapse of three years, the same was restored. Taking the said fact also into consideration, the learned single judge has allowed the Writ Petition setting aside the removal order. Having taken note of the fact that the respondent has already attained the age of superannuation on 30-11-2016, the learned single judge has declared that he would be entitled to continuity of service for the period from the date of removal till the date of reinstatement with attendant benefits but without back wages.

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

7. In the light of the facts as discussed above, we do not find any reason to interfere with the order of the learned single judge which is not only just but also reasonable under the facts and circumstances of the case. The Writ Appeal is accordingly dismissed.

8. As a sequel to dismissal of the Writ Appeal, W.A.M.P.No. 2042 of 2017 shall stand dismissed as infructuous.

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**C.V.NAGARJUNA REDDY, J.**

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**GUDISEVA SHYAM PRASAD, J.**

Date: 31-07-2017.

JSK



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AND  
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD



**W.A.No. 1062 OF 2017**

*(Judgment of the Division Bench delivered by  
Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

**DATE: 31<sup>ST</sup> JULY, 2017**

JSK