

APHC010191402017



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

**[3504]**

FRIDAY, THE TWENTY EIGHTH DAY OF MARCH  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

**WRIT PETITION NO: 2873/2017**

**Between:**

V.S. Rayudu, S/o. Gopal, Occ: Driver and Others **...PETITIONER(S)**

**AND**

Andhra Pradesh State Road Transport Corporation **...RESPONDENT(S)**  
Rep By and Others

**Counsel for the Petitioner(S):**

1. A K JAYAPRAKASH RAO

**Counsel for the Respondent(S):** A. RAMA RAO

**The Court made the following:**

**ORDER:**

The instant writ petition is being filed by the petitioners seeking the following main relief under Article 226 of Constitution of India, which reads as under:

*“to issue an appropriate Writ, Order or Directions, particularly one in the nature of Writ of Mandamus, declaring that the Common Office Order issued by the 3<sup>rd</sup> respondent in proceedings No.E1/482(1)/16-MYDK, dated 20.12.2016, received on 28.12.2016 ordering to recovery of the amounts from the salaries of the petitioners in three equal monthly installments without giving any*

*notice and opportunity as illegal, unjust, contrary to law, arbitrary, irrational, discriminatory, amounts to unfair labour practice and violative of principles of natural justice and violative of Articles 14, 16 and 21 of the Constitution of India by directing the 3<sup>rd</sup> respondent to refund the deducted amount with interest by granting all consequential benefits in the interest of justice and to pass.....”*

**Brief case of the petitioners:**

2. As per the version stated in the writ petition, all the petitioners are working as permanent employees of the 1<sup>st</sup> respondent Corporation and discharging their duties as Drivers and Conductors in the 3<sup>rd</sup> respondent Depot.

3. It is also stated that, through the instant writ petition, the petitioners challenged the office order No.E1/482(1)/16-MYDK, dated 20.12.2016, issued by the 3<sup>rd</sup> respondent to them individually, whereby and where under, ordering for recovery of amounts from their respective salaries were assailed.

4. The main case projected by the petitioners is that, without any prior notices or without conducting any enquiry in accordance with the Rules in vogue, the orders dated 20.12.2016 were issued against them. In nutshell, the petitioners contended that, the impugned orders are transgression of Andhra Pradesh State Road Transport Corporation Employees (Classification, Control and Appeal), Regulations, 1967 (hereinafter referred to as ‘Regulations, 1967’) and also gross violation of principles of natural justice.

**Case of the Respondent – Corporation:**

5. The 1<sup>st</sup> respondent Corporation filed its elaborate counter running into eight pages. Wherein, the sum and substance is that the Audit team of the 1<sup>st</sup> respondent Corporation was inspected the DCP and PMS Musters of conductors and Drivers of the 3<sup>rd</sup> respondent Depot and found serious discrepancies etc. It is also stated in the counter that, the Personnel Officer, Kadapa, along with the other officers caused a scrutiny of Muster (MTD 441) and DCP with that of PMS Module in respect of conductors and drivers of the 3<sup>rd</sup> respondent Depot for the period 17.03.2014 to 16.12.2014. In the said inquiry, Personnel Officer and his team found irregularities viz; some employees were given musters though they had not worked, which resulted pecuniary loss to the 1<sup>st</sup> respondent Corporation to the tune of Rs.5,27,201.71 ps. Thus, the Personnel Officer, Kadapa submitted report No.PA/482(1)/2014-RM-K, dated 11.03.2015 to the 2<sup>nd</sup> respondent.

6. It is further stated in the counter that, basing upon the Report dated 11.03.2015, the 2<sup>nd</sup> respondent through the office order No.PA/482 (1)/2014-RM-K, dated 25.10.2016, directed the 3<sup>rd</sup> respondent to recover the amounts from the monthly salaries of the concerned staff in three monthly installments and report compliance.

7. It is also asserted that the 3<sup>rd</sup> respondent in obedience with the 2<sup>nd</sup> respondent orders calculated the total pecuniary loss amount of

Rs.5,27,201.71 and issued recovery proceedings through impugned orders No.E1/482(1)/16-MYDK dated 20.12.2016 to the petitioners and others individually, who are working as Drivers and Conductors in the 3<sup>rd</sup> respondent Depot proposed the amount to be recovered in three installments from the petitioners.

8. It is further stated in the counter that consequent to the interim orders dated 27.01.2017 of this Court, they recovered only partial amount (one installment only) and stopped further recovery proceedings against the petitioners.

9. Heard the learned counsel Sri V. Padmanabha Rao, representing Sri A.K.Jayaprakash Rao, learned counsel for the petitioners as well as the learned Standing Counsel appearing for respondents 1 to 3, Sri Aravala Rama Rao.

10. This Court considered the material on record and taking into account the submissions made by both the counsels respectively, proposes to consider the lis to reach its logical conclusion.

**Submissions of the respective counsel:-**

11. Learned counsel for the petitioners, while reiterating their stand in the writ affidavit, mainly attacked the impugned orders dated 20.12.2016 are in gross violation of the Regulations, 1967 and also on the ground of violation of principles of natural justice. Firstly, he contended that the

impugned orders were emanated basing upon the unilateral report i.e., No.PA/482(1)/2014-RM-K, dated 11.03.2015 of the Personnel Officer, APSRTC, Kadapa. The said report was not disclosed to the petitioners at all. Secondly, in terms of the direction given by the 2<sup>nd</sup> respondent, the 3<sup>rd</sup> respondent without giving any prior notices or conducting any enquiry, also without determining the specific roles and liabilities against the petitioners, straight away issued the recovery proceedings dated 20.12.2016 individually to the petitioners herein, by fixing the different amounts, which are per se illegal, arbitrary and in violation of principles of natural justice.

12. Per contra, learned counsel for the respondents Corporation stated that, apparently there were large scale financial irregularities and discrepancies found by the Test Audit Party in its inspection. Hence, based upon the said Audit notes, the Personnel Officer, Kadapa along with other members of the 1<sup>st</sup> respondent Corporation conducted a detailed enquiry and came to know that some of the employees mis-utilised the Musters though they are not worked at the relevant period etc. Thus, the said enquiry quantified the total financial loss to the tune of Rs.5,27,201.71 ps. sustained by the 1<sup>st</sup> respondent Corporation. Thus, the Personnel Officer forwarded his report dated 11.03.2015 to the 2<sup>nd</sup> respondent.

13. It is also argued that, the 2<sup>nd</sup> respondent through his order dated 25.10.2016, directed the 3<sup>rd</sup> respondent to recover the amount in three monthly installments from the monthly salaries of the petitioners, who were responsible for the said financial discrepancies.

14. **Consideration of the Court:**

The moot question emerging in the instant lis is that, whether the impugned orders preceded by any prior notices or enquiry proceedings against the petitioners, in accordance with the law and also principles of natural justice complied, before recovering the amounts from the petitioners' respective salaries or not?

15. Admittedly, the petitioners are employees working in the respondents' Corporation. The employees in the respondents' Corporation service conditions are under the Regulations, 1967. For the sake of ready reference, the relevant regulations are extracted here under:-

**The Andhra Pradesh State Road Transport Corporation**  
*Employees (Classification, Control and Appeal) Regulations, 1967.*

**PART – IV**  
**Discipline – Penalties**

**8. Penalties:**

*(1) The following penalties may, for good and sufficient reason and as hereinafter provided, be imposed upon an employee namely:*

*(i) censure:*

(ii) *Withholding of the privilege of free passes or privilege ticket orders or both for travel on the railway or the bus services of the Corporation, as the case may be, in the case of employees to whom such privilege or privileges are admissible;*

(iii) *fine, in the case of persons for whom such penalty is permissible under these Regulations, vide sub-clause (3);*

(iv) *withholding of increments;*

(v) *recovery from pay of the whole or part of any pecuniary loss caused to the Corporation by an employee's negligence or breach of orders;*

(vi) *suspension where a person has already been suspended under Regulation 18 pending enquiry into his conduct, to the extent considered necessary by the authority imposing the penalty.*

(vii) to (ix).....

## **12. Procedure for imposing penalties:**

(1) *No order imposing any of the penalties specified in items (i) to (vi) of clause (1) of regulation 8 shall be passed except after—*

(a) *the employee concerned is informed in writing of the proposal to take action against him and of the allegations on which action is proposed to be taken and is given an opportunity to make any representation he may wish to make; and*

(b) *such representation, if any, is taken into consideration by the authority imposing the penalty.*

*The record of proceeding in such cases shall include a copy of the intimation to the employee of the proposal to take action against him, a copy of the statement of allegations*

*communicated to him, his representation, if any, the findings arrived at on the allegation with reasons therefore and the orders passed on the case by the authority competent to impose the penalty.*

16. A plain reading of the Regulations, 1967 clearly stipulates that the 1<sup>st</sup> respondent Corporation is duty bound to issue prior notice and to give an opportunity to the concerned and then only, empowered to impose the penalties against the employees.

17. Whereas, in the instant case, apparently, the 1<sup>st</sup> respondent – Corporation has not pleaded in its counter that they followed the above stated procedures prescribed in the Regulations, 1967 before deducting amounts from the salaries of the petitioners. In the absence of procedural pre-requisites, straight away recovering the amounts from the salaries of the petitioners is unknown to law.

18. A glance of the counter filed on behalf of the respondents goes to show that the 1<sup>st</sup> respondent Corporation merely stated about the internal correspondence and other departmental proceedings only, but not at all addressed, the key point raised by the petitioners, regarding the violation of the Regulations, 1967 as well as principles of natural justice. Specifically, whether prior notices were issued to the petitioners before issuing the orders under challenge. In the absence of the above vital information, coupled with the fact that, till today no additional counter nor



any other document filed by the 1<sup>st</sup> respondent Corporation to demonstrate that, they have complied the Regulation, 1976 and principles of natural justice before issuing the impugned orders dated 20.12.2016.

19. Apparently, even as per the version stated by the 1<sup>st</sup> respondent Corporation that, on the premise of fiscal violation, the audit team of the 1<sup>st</sup> respondent Corporation inspected the 3<sup>rd</sup> respondent depot and found certain irregularities. Taking clue from the said Audit Report, the Personnel Officer of the APSRTC, Kadapa along with other members further caused an enquiry. In the said enquiry, they came to know that the 1<sup>st</sup> respondent Corporation sustained huge pecuniary loss to the tune of Rs.5,27,201.71 ps., thereby, the said Personnel Officer forwarded the report vide No.PA/482(1)/2014-RM-K, dated 11.03.2015 to the 2<sup>nd</sup> respondent. The 2<sup>nd</sup> respondent exclusively by relying upon the said undisclosed Report dated 11.03.2015 directed the 3<sup>rd</sup> respondent to recover the amounts from the monthly salaries of the petitioners who are working in the 3<sup>rd</sup> respondent Depot as drivers and conductors.

20. Undisputedly, the report dated 11.03.2015 of the Personnel Officer, Kadapa forwarded to the 2<sup>nd</sup> respondent, has not been disclosed to the petitioners. Thereafter, basing upon the said unilateral Report, the 2<sup>nd</sup> respondent directed the 3<sup>rd</sup> respondent vide orders No.PA/482(1)2014-RM-K dated 25.10.2016, to recover the amounts from the monthly salaries from the petitioners and others, which crystal clears that no

enquiry as contemplated under Regulations, 1967 has been adhered. Further, the petitioners were not furnished the copy of one way report dated 11.03.2015 to the petitioner, at any point of time.

21. It is apt to mention that the 3<sup>rd</sup> respondent in obedience to his superior Officer orders dated 25.10.2010 has passed the impugned orders dated 20.12.2016 for recovery of amounts from the salaries of the petitioners without causing any enquiry. Thus, the 3<sup>rd</sup> respondent on his own perception without applying any reasonable methodology, yardstick, fixed the liability of payment of total fiscal loss on the petitioners by fixing the different amounts on his own, which is nothing but, the gross violation of Regulations, 1967 as well as the principles of natural justice.

22. **Significance of Principles of Natural Justice:**

- a. The words 'jus-naturale' and 'lex-naturale' which emphasize the principles of natural justice, natural law, and equity.
- b. The main principles of natural justice are *Nemo Judex In Causa Sua* and *Audi Alteram Partem*.
  - i. *Nemo Judex In Causa Sua* – It means that no one should be a judge in his own case because it leads to the rule of biases.
  - ii. *Audi Alteram Partem* – It means that no person can be condemned or punished by the Court without having a fair opportunity of being heard.
  - iii. *Additionally, a reasoned order is third facet.*

- c. The adherence to principles of natural justice, as recognized by all civilized states, is of supreme importance when the any adjudicating Authority embarks on determining the disputes between the parties, or when any administrative action involving civil consequences is in issue. Natural Justice is a common law concept that emphasizes on fair, equal and impartial delivery of justice.

23. The principles of natural justice have been followed since ancient times, right from gross root level (village Panchayats) to Emperor's Assembly. In this context, the law is well settled by the Five Judges Bench of the Hon'ble Apex Court in ***A.K Kraipak v. Union of India***<sup>1</sup> in its unequivocal words held that, no decision shall be given against a party without affording him a reasonable hearing/opportunity. The relevant portion, in the above judgment, reads as follows:

*"The aim of the rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules can operate only in areas not covered by any law validly made. In other words they do not supplant the law of the land but supplement it. The concept of natural justice has undergone a great deal of change in recent years. In the past it was thought that it included just two rules namely (1) no one shall be a judge in his own case (Nemo debet esse judex propria causa) and (2) no decision shall be given against a party without affording him a reasonable*

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<sup>1</sup> (1969) 2 SCC 262

*hearing (audi alteram partem). Very soon thereafter a third rule was envisaged and that is that quasi-judicial enquiries must be held in good faith, without bias and not arbitrarily or unreasonably. But in the course of years many more subsidiary rules came to be added to the rules of natural justice. Till very recently it was the opinion of the courts that unless the authority concerned was required by the law under which it functioned to act judicially there was no room for the application of the rules of natural justice. The validity of that limitation is now questioned. If the purpose of the rules of natural justice is to prevent miscarriage of justice one fails to see why those rules should be made inapplicable to administrative enquiries. Often times it is not easy to draw the line that demarcates administrative enquiries from quasi-judicial enquiries. Enquiries which were considered administrative at one time are now being considered as quasi-judicial in character. Arriving at a just decision is the aim of both quasi-judicial enquiries as well as administrative enquiries. An unjust decision in an administrative enquiry may have more far reaching effect than a decision in a quasi-judicial enquiry....”*

24. Another Landmark Judgment of ***Menaka Gandhi Vs Union of India***<sup>2</sup>, the seven-Judge Bench of the Hon’ble Supreme Court of India held that, an order that was made in contravention of the Rule of Natural Justice embodied in the maxim “*audi alteram partem*” is null and void.

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<sup>2</sup> 1978(1) SCC 248

25. The Constitutional Bench of the Hon'ble Supreme Court in ***Union of India Vs Tulshiram Patel***<sup>3</sup> by unfold the vistas of principles of natural justice observing that violation of the principles of natural justice is a violation of Article 14 of the Constitution of India.

26. It is also well known that the principles of natural justice applicate even in the absence of expressly set out in the statutory framework also. The Apex Court vividly stated in ***Canara Bank vs. V K Awasthy***<sup>4</sup>, at para 14 as under:

*“ Concept of natural justice has undergone a great deal of change in recent years. Rules of natural justice are not rules embodied always expressly in a statute or in rules framed there under. They may be implied from the nature of the duty to be performed under a statute. What particular rule of natural justice should be implied and what its context should be in a given case must depend to a great extent on the fact and circumstances of that case, the framework of the statute under which the enquiry is held. The old distinction between a judicial act and an administrative act has withered away. Even an administrative order which involves civil consequences must be consistent with the rules of natural justice. The expression "civil consequences" encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages. In its wide umbrella comes everything that affects a citizen in his civil life.”*

27. Another facet of the argument suggests that, in the absence of prejudice, the principles of natural justice may not be

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<sup>3</sup> (1985)(3) SCC 398

<sup>4</sup> 2005(6) SCC 321

applicable. In this context, adjudicatory forums must examine the factual circumstances by applying a test: whether there has been a complete denial of opportunity or a failure to provide reasonable opportunity. A complete denial of opportunity directly constitutes a gross violation of the principles of natural justice. By contrast, where reasonable opportunity is not afforded, the doctrine of prejudice falls within the scope of judicial scrutiny. In essence, the doctrine of prejudice does not supplant the principles of natural justice but operates as an integral part. Therefore, mere projection of argument of prejudice by itself is not a sole ground to brush aside the applicability of principles of natural justice.

28. The Hon'ble Supreme Court of India in ***State Bank of India and others vs Rajesh Agarwal and others***<sup>5</sup> by scanning the anatomy of the principles of natural justice lucidly and expressed that, the principles of Natural Justice has a universal application and constitute an important fact of procedural propriety envisaged under Article 14 of the Constitution of India. The Rule of '*audi alteram partem*' is recognized as being a part of the fundamental rights guaranteed in the Article 14 of the Constitution of India.

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<sup>5</sup> 2023(6) SCC 1

29. Recently, in ***U.P State Road Transport Corporation & Ors. Vs. Brijesh Kumar & Another***, the Hon'ble Supreme Court of India on 28.08.2024, while deciding the lis instituted by the U.P State Road Transport Corporation in respect of terminating the services of the contractual employees held that principles of natural justice should be complied with.

30. Very Recently, the Full Bench of the Hon'ble Supreme Court of India in ***Krishnadatt Awasthy Vs. State of Madhya Pradesh***<sup>6</sup>, by taking into different facets of principles of natural justice in its unequivocal words observed that the primary purpose of natural justice is to assist the administration in reaching sound decisions at the outset, reducing the likelihood of decisions being overturned later. Its significance lies in fostering fair and well-informed decision making at the very first instance.

31. That being the position in respect of salutary principles formulated by our Indian Legal System. Now reverting to the case on hand, the 1<sup>st</sup> respondent Corporation authorities without following the procedure enunciated in the Regulations, 1967 coupled with the fact that, non-adhering the principles of natural justice, by straightaway deducting amounts from the salaries of

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<sup>6</sup> (2025) SCC Online SC 179

the petitioners is per-se illegal, arbitrary and liable to be set aside.

32. Before parting with the instant case, this court in view of phenomenal importance attached to the principles of natural justice, in adjudicating the cases day-in and day-out, by the judicial, quasi-Judicial administrative authorities in vivid foras, should be complied with the principles of natural justice in its true letter and spirit then only, it is paving the way to reach the objects and intendment of our Indian Constitution.

33. Resultantly, the writ petition is allowed, setting aside the impugned order dated 20.12.2016 passed against the petitioners. Consequently, the respondents are hereby directed to return the amounts recovered from the salaries of the petitioners, within a period of three (3) months. However, the respondents are at liberty to initiate appropriate steps, if so advised, in accordance with law only.

No order as to costs. Consequently, miscellaneous applications, if any, pending shall stand closed.

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**MAHESWARA RAO KUNCHEAM, J**

Date:28.03.2025  
Rns/gvk



**HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

**WRIT PETITION No.2873 OF 2017**

**Date: 28.03.2025**

GVK