

Settappa Vs. State of Mysore

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Court : Karnataka

Decided On : Feb-07-1963

Reported in : 1964CriLJ112; (1963)IILLJ723Kant; (1963)2MysLJ28

Judge : A.R. Somnath Ayyar and ;G.K. Govinda Bhat, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 353; [Constitution of India](#) - Article 311

Appeal No. : Writ Petition No. 1440 of 1961

Appellant : Settappa

Respondent : State of Mysore

Judgement :

ORDER

Somnath Ayyar, J.

1. The Complaint made in this case by the petitioner who was a driver in the Mysore Government Road Transport Department and who was dismissed by an order made by the general manager on 27 February, 1961, is that he has been punished more than once for the same act of misconduct. The question it is so.

2. On 7 March, 1960, the deputy general manager made an order suspending the petitioner for a period of seven days and the ground on which he was so

suspended was that he had obstructed an octroi mutsaddi from performing his official duty and had belaboured him and his peon. It is seen that when the deputy general manager imposed that punishment on the petitioner, the petitioner had already been convicted by the Stationary Sub-Magistrate, Bellary, in Criminal Case No. 816 of 1958 by his judgment which he rendered on 23 November, 1959, of an offence of assault punishable under S. 353 of the Penal Code. The sentence imposed by the Magistrate on the petitioner was a fine of Rs. 50 which reduced in appeal to Rs. 25. The argument advanced is that when the deputy general manager imposed a punishment of suspension on 7 March, 1960, he was fully aware of the conviction of the petitioner by the Bellary Magistrate and that if nevertheless the deputy general manager only imposed a punishment of suspension, it was not within the power of the general manager to impose another punishment for the same misconduct for which he had already been punished by the deputy general manager.

3. It seems to me that the presentation of the case in that way for the petitioner can have no answer. It is clear from the order made by the deputy general manager on 7 March, 1960 that the punishment of suspension was imposed upon the petitioner for the misconduct consisting of obstruction offered by the petitioner to the performance of the official duties of the octroi mutsaddi and the assault made on him and his peon. This is how the order reads :

'Read :

Charge Memos. Nos. T. 6451 & 645257-8, dated 24 February, 1958, issued to Settappa, driver, and Kempanna, conductor, for preventing mutsaddi from checking octroi goods and for assaulting him and the peon by beating them several on 29 January, 1959 and the explanation of the running staff thereon.

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