

THE HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

—
WRIT APPEAL No.1096 of 2006

JUDGMENT: (Per Hon'ble Sri Justice A.Ramalingeswara Rao)

Heard the learned Counsel for the appellant and the learned Counsel for the respondents.

This Writ Appeal is directed against the order of the learned Single Judge in W.P.No.11908 of 2000 dated 06.01.2006.

The appellant/petitioner was working as a Conductor. While he was working as the Conductor in Atmakur Depot in bus bearing No.AAZ 5691, on 26.08.1997 his bus was checked and a charge sheet was issued on 02.09.1997 alleging that he issued a blank ticket in place of valid ticket to a batch of two passengers. The appellant submitted his explanation on 18.09.1997. However, an enquiry was conducted pursuant to which the third respondent passed an order on 17.01.1998 removing the appellant from service. Challenging the same, the appellant preferred an appeal before the appellate authority. The appellate authority modified the order passed by the third respondent by proceedings dated 05.06.1998 by ordering reinstatement into service and not treating the period of absence as on duty for the purpose of leave and wages and deferring the annual increment for a period of two years with cumulative effect. The appellant preferred a review petition before the Regional Manager and when the same was rejected on 28.02.2000, the petitioner filed W.P.No.11908 of 2000 and the learned single Judge dismissed the Writ Petition holding as follows:

“In the present writ petition the petitioner did not challenge the enquiry proceedings and the only question remains to be answered is whether the proved misconduct is disproportionate to the punishment imposed. Since it is a cash and ticket irregularity, the petitioner was removed from service. The Appellate Authority, taking a lenient view, had modified the punishment of removal and directed to reinstate the petitioner into service, and on such reinstatement, ordered to defer the annual increments for a period of two years with cumulative effect and to treat the period of suspension as “not on duty for the purpose of leave and

wages, and no exception can be taken thereto, more so having regard to the judgment of the apex Court in **Regional Manager, Rajasthan SRTC v. Sohan Lal** ((2004) 8 SCC 218), wherein it was held that it is not within the normal jurisdiction of the superior courts to interfere with the quantum of sentence imposed by the disciplinary authority, unless it is shown that the sentence imposed is wholly disproportionate to the misconduct proved. The petitioner has not made out any ground to show that the punishment imposed by the disciplinary authority is disproportionate to the proved misconduct.”

It is clear from the above facts that the order of the third respondent was modified in appeal by the second respondent and the appellant was reinstated into service. This Court cannot sit in appeal over the order of the appellate authority and modify the order as rightly held by the learned single Judge relying on the decision of the Supreme Court. In view of the same, nothing survives in the Writ Appeal.

The Writ Appeal is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(DILIP B. BHOSALE, J)

(A.RAMALINGESWARA RAO, J)

20.01.2015
vs