

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.31967 of 2011

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the order of removal of the petitioner passed by the Depot Manager, Dhone – 4th respondent herein vide proceedings No.P1/1(103)/2005-Dhone, dated 27-11-2006 as confirmed by the appellate and reviewing authorities vide proceedings No.Steno/19(13)/ 2010-Dy.CTM, dated 09-03-2010 and proceedings No.PA/ 19(245)/2010-RM-Q, dated 09-06-2010 respectively.

Heard Sri S.M. Subhan, learned counsel for the petitioner and learned Standing Counsel for A.P.S.R.T.C. for respondents, apart from perusing the material available before this Court.

The petitioner herein was initially appointed as Driver on 01-07-1999 and while he was working at A.P.S.R.T.C., Dhone Depot he was absent from duties during the period from 01-08-2006 to 07-08-2006. According to the petitioner, he suffered illness during the said period and he submitted medical certificate also. The Depot Manager followed by the framing of charges against the petitioner for the said un-authorized absence vide proceedings No.P1/1(103)/05-Dhone, dated 27-11-2006 dispensed with the services of the petitioner. As against the said orders passed by the Depot Manager, the petitioner preferred an appeal before the Deputy Chief Traffic Manager, Kurnool – 3rd respondent herein and the said appeal was rejected as time barred and felt aggrieved by the same the petitioner herein also exhausted the remedy of

review to the Regional Manager, Kurnool – 2nd respondent herein and the said review also ended in rejection vide proceedings No.PA/19(245)/2010-RM-Q, dated 09-06-2010.

Assailing the validity of the above said order passed by the primary authorities as confirmed by the appellate and reviewing authorities, the present Writ Petition came to be filed.

The principal contention advanced in the present Writ Petition is that the respondent authorities grossly erred in dispensing with the service of the petitioner on the ground of unauthorized absence for the period from 07-11-2006 to 27-11-2006 as the said allegation was not preceded by any charge sheet nor any enquiry.

A perusal of the impugned order, dated 27-11-2006, in clear and un-equivocal terms, discloses that the respondent authorities framed the charge for the unauthorized absence during the period from 01-08-2006 to 07-08-2006 but imposed punishment taking into consideration the absence during the period 07-11-2006 to 27-11-2006.

In this connection it may be appropriate to refer to the judgments of this Court cited by the learned counsel for the petitioner i.e., in case of ***M. Murali Krishna v. A.P.S.R.T.C., Musheerbad, Hyderabad and another*** in Writ Appeal No.769 of 2005, dated 05-04-2005 and W.P.No.6088 of 2011, dated 11-03-2011.

In the said judgments this Court considered the validity of the identical orders and was pleased to set aside the said orders. Copies of the said orders have been placed on record along with

the Writ Petition.

Following the above said judgments and for the reasons recorded therein, the Writ Petition is allowed, setting aside the removal order vide Proc.No.P1/1(103)/2005-Dhone, dated 27-11-2006, which was confirmed by the appellate and review authorities vide Proc.No.Steno/19(13)/2010-Dy.CTM, dated 09-03-2010 and the Proc.No.PA/19(245)/2010-RM-Q, dated 09-06-2010 respectively.

Miscellaneous Petitions pending, if any, shall stand closed.
There shall be no order as to costs.

A.V. SETHA SAI, J

December 31, 2015

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THE HON'BLE SRI JUSTICE A.V. SETHA SAI

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