

THE HON'BLE SHRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.22599 OF 2012

DATED 13th MARCH, 2015

Between:

The Regional Manager,
APSRTC, Kurnool.

... Petitioner

and

The Depot Secretary,
APSRTC Employees Union, Kurnool,
representing Sri M.G.Chakravarthy, Conductor,
and another.

... Respondents

THE HON'BLE SHRI JUSTICE SANJAY KUMAR

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ORDER

The Industrial Tribunal-cum-Labour Court, Anantapur, passed Award dated 03.11.2011 in I.D.No.123 of 2010, whereby it set aside the proceedings dated 20.01.1999 of the Regional Manager, Andhra Pradesh State Road Transport Corporation (APSRTC), Kurnool, and directed the APSRTC to restore M.G.Chakravarthy, Conductor, to his original post with pay on notional basis, continuity of service and attendant benefits but with monetary benefit only from the date of passing of the Award. Aggrieved thereby, the Regional Manager, APSRTC, Kurnool, is before this Court by way of the present writ petition.

On 25.07.2012, this Court granted interim suspension of the impugned Award. WVMP No.3517 of 2012 was filed by the first respondent in the writ petition to vacate the said order. However, the matter is amenable to final disposal as the issue arising herein is squarely covered by earlier decisions of this Court.

By the proceedings dated 20.01.1999, the Regional Manager, APSRTC, Kurnool, being the Reviewing Authority, directed appointment of M.G.Chakravarthy as a fresh Conductor Grade-II with pay fixation at the minimum scale. The issue is whether the Reviewing Authority had the power to direct such appointment afresh. This very question fell for decision before this Court on several occasions earlier.

In ***S.B.SAHEB V/s. APSRTC***^[1], this Court held that in exercise of

power under Regulation 8(1)(vii) of the APSRTC Employees (Classification, Control and Appeal) Regulations, 1967 (for brevity, 'the Regulations'), the Disciplinary Authority could not impose the punishment of a new appointment.

A distinction was however drawn by a learned Division Bench of this Court in ***P.HABEEB SAHEB V/s. ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION, REP. BY ITS MANAGING DIRECTOR, HYDERABAD***^[2], wherein it was held that if the order passed by the Reviewing Authority consisted of two parts - the first relating to confirmation of the order of removal and the second, relating to appointment afresh on compassionate considerations, it would not amount to modification of the order of punishment and the appointment afresh would not be by way of a punishment.

In ***G.SAMBASIVA RAO V/s. A.P. STATE ROAD TRANSPORT CORPORATION, HYDERABAD***^[3], this Court was of the opinion that it would be open to the Disciplinary Authority to impose not only a penalty specified in the Regulations but also any other penalty thought adequate, provided such penalty fell within the limits of the minimum and maximum penalties enumerated in the Regulations.

However, the *ratio* in ***G.SAMBASIVA RAO***³ was held inapplicable to a case where the punishment imposed was that of appointment afresh in ***K.C.NARAYANA V/s. MANAGING DIRECTOR, APSRTC, HYDERABAD***^[4]. Therein, this Court referred to ***STATE BANK OF INDIA V/s. T.J.PAUL***^[5], which held to the effect that the Disciplinary Authority is not empowered to impose a punishment not specified in the penalties prescribed by the statutory rules.

The proceedings dated 20.01.1999 of the Regional Manager, APSRTC, Kurnool, would therefore have to be examined in the light of the aforesaid legal position. If the proceedings consist of two parts, one relating to confirmation of the order of removal and the other,

relating to a direction for appointment as a fresh Conductor, the *ratio* of **P.HABEEB SAHEB²** would be attracted. However, the proceedings dated 20.01.1999 do not consist of two parts. Perusal thereof reflects that the Reviewing Authority, in unequivocal terms, modified the order of punishment and the appointment afresh was not a separate action while confirming the punishment imposed. This is clear from the following extract out of the said proceedings.

“Though the order of the D.M. is justified, a lenient view is taken purely on humanitarian grounds and with a belief that he would be useful to the Corporation. The orders of the D.M. are modified as follows: *(emphasis added)*

1) He is re-instated into service as AFRESH CONDUCTOR
GR.II;

In that view of the matter, interference with the proceedings dated 20.01.1999 was clearly warranted and the impugned Award setting aside the said proceedings was justified.

The writ petition is therefore devoid of merit and is accordingly dismissed. Interim order dated 25.07.2012 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

13th MARCH, 2015
PGS

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- [\[1\]](#) 1988(2) ALT 66 (NRC)
[\[2\]](#) 1995(1) ALT 553 (DB)
[\[3\]](#) 1997(1) ALD 451
[\[4\]](#) 2007(5) ALD 416
[\[5\]](#) AIR 1999 SC 1994