

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.4664 of 2002

Date: 16-07-2015

Between:

R. Narayana Reddy

.... Petitioner

AND

The APSRTC, represented by its Chairman
and Managing Director, Musheerabad, Hyderabad
and 3 others

.... Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.4664 of 2002

ORDER:

The writ petition is filed for a mandamus declaring the action of the 2nd respondent in deferring annual increment for a period of two years, which shall have effect on future increments, on reinstatement of the petitioner into service and in treating the service of absence from the date of removal from service till reporting duty as "Not on Duty" for the purpose of leave and increments as illegal, arbitrary and disproportionate and for a consequential direction to the respondents to pay his increments to the petitioner with arrears and treated his service of absence as "On Duty" for the purpose of leave and salary and with full back wages and other benefits.

2. The case of the petitioner is that he was working as conductor under the 4th respondent Corporation and while he was

conducting the vehicle bearing No.7957 on 27-01-2001 on the route Cuddapah to Bangalore, the bus was checked by TTIs at stage No.9 and detected that the petitioner has committed certain serious cash and ticket irregularities and was issued a charge sheet framing three charges. The petitioner submitted his explanation on 16-02-2001 denying the charges levelled against him and without considering the said explanation, the 4th respondent conducted an enquiry by appointing an Enquiry Officer and basing on the report of such Enquiry Officer, the 4th respondent issued show cause notice of removal through proceedings dated 05-07-2001, pursuant to which, the petitioner submitted his explanation on 09-07-2001, but without considering the same, the 4th respondent passed order of removal from his services with immediate effect through proceedings No.02/95 (7)/2001-KDP, dated 13-07-2001. Aggrieved by the said proceedings, the petitioner preferred an appeal on 16-07-2001 before the 3rd respondent-appellate authority and the 3rd respondent-appellate authority passed orders on 04-08-2001 setting aside the punishment of removal from service imposed by the disciplinary authority and ordering reinstatement of the petitioner into service with immediate effect, apart from ordering withholding of annual increment with cumulative effect for a period of two years, as a measure of punishment. On reinstatement, the petitioner was posted to Rajampet Depot. The appellate authority also ordered that the period of absence from the date of removal from service till he reports duty be treated as "Non on Duty" for the purpose of leave and increments and aggrieved by the said order, the petitioner filed review petition on 12-09-2001 before the 2nd respondent, but the same was rejected on 21-09-2001.

Aggrieved by the same, the present writ petition is filed.

3. The respondent Corporation filed its counter, while admitting about issuance of charge sheet to the petitioner for his alleged irregularities and the conducting of enquiry for the alleged irregularities, stated that the charges levelled against the petitioner are held proved by the Enquiry Officer and the same was accepted by the disciplinary authority, but the appellate authority by taking a lenient view of the matter had set aside the order of removal and reinstated the petitioner into services by imposing punishment of withholding of annual increment with cumulative effect even though the charges levelled against him are serious in nature and the same was confirmed by the Reviewing Authority and these are all questions of fact, which cannot be gone into the writ petition.

4. Heard the learned counsel for the petitioner and the learned standing counsel for the respondent Corporation.

5. It is to be seen that basing on the charges framed by the Disciplinary Authority against the petitioner, an enquiry was conducted and the Enquiry Officer, after completion of the enquiry into the charges, submitted his report holding that the charges levelled against the petitioner are proved, basing on which the Disciplinary Authority imposed the punishment of removal from service on the petitioner. But, on preferring the appeal by the petitioner/delinquent, the appellate authority, taking a lenient view of the matter, set aside the order of removal from service imposed by the Disciplinary Authority and ordered reinstatement of the petitioner into services, apart from imposing punishment of withholding annual increment with cumulative effect for a period of two years. The appellate authority also ordered that the period of absence from the date of removal from service till he reports for duty be treated as "Not on Duty" for the purpose of leave and

increments. The Appellate Authority clearly stated that the passenger had paid the requisite fare at boarding point itself.

Even though the charges levelled against the petitioner are grievous in nature, the appellate authority taking a lenient view of the matter had imposed the aforesaid minor punishment setting aside the major punishment imposed by the Disciplinary Authority. Normally, this court will not interfere with the findings given by the authorities by reappreciating the evidence in exercise of power of judicial review under Article 226 of the Constitution of India unless the said findings are without any evidence and the punishment imposed is shockingly disproportionate to the charges levelled against the petitioner/delinquent. In this case, the appellate authority, having considered the charges and the circumstances of the case, reduced the punishment of removal from service into one of reinstatement into service with punishment of withholding of annual increment for a period of two years, which cannot be said to be disproportionate and unsustainable. As such, the punishment imposed by the appellate authority is not at all on higher side and the findings given by the appellate authority do not suffer from any illegality or irregularity warranting interference of this court in exercise of power of judicial review under Article 226 of the Constitution of India, and hence, the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

A. RAJASHEKER REDDY, J

Date: 16-07-2015

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