

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**FRIDAY, THE TWENTY SECOND DAY OF JULY, TWO
THOUSAND AND SIXTEEN**

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Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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Writ Petition No.3456 of 2011

Between:

V. Maddilety, s/o. Naganna, 52 years, E-409685, Driver, R/o.
Kurnool District.

.. Petitioner

AND

The APSRTC rep. by its Vice Chairman & Managing Director,
Musheerabad, Hyderabad and others.

.. Respondents

The Court made the following:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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Writ Petition No.3456 of 2011

ORDER

Petitioner is a regular Driver of the respondent Corporation.

On 29.09.2008, the bus entrusted to him met with an accident killing a person, who was crushed under the bus. Disciplinary proceedings as well as criminal proceedings were initiated against the petitioner. In the disciplinary proceedings, the disciplinary authority passed orders of removal from service on 12.02.2009. The appellate authority affirmed the said order. On the review filed by the petitioner, by order dated 21.08.2009, the reviewing authority modified the punishment to that of reduction of two incremental stages having cumulative effect. It further ordered to treat the period of suspension till he reports to duty in pursuance of the order of the reviewing authority as 'not on duty' for the purpose of leave and wages. Petitioner challenges the order of removal as modified by the reviewing authority.

2. Heard learned counsel for the petitioner and learned Standing Counsel for the respondents Corporation.

3. On a bare look at prayer sought in the writ petition, this writ petition deserves to be dismissed on the sole ground that wrong prayer was sought by the petitioner. Petitioner challenges the order of the reviewing authority as if an order of fresh appointment

was passed, whereas the punishment of removal was modified to that of reduction in pay for a period of two years. However, learned counsel for the petitioner sought to contend that since petitioner was acquitted in criminal proceedings, punishment should be reviewed and therefore prays to consider the writ petition.

4. By relying on a subsequent acquittal, learned counsel submits that in accordance with Circular No.48/95-OPD(T) dated 21.07.1995, the order of removal ought to be revoked and the petitioner is entitled for all consequential benefits. More particularly, learned counsel placed reliance on paragraph “L’ of the said Circular, which reads as under:

“L. REMOVED BASING ON THE DEPARTMENTAL ENQUIRY AND ACQUITTED IN APPELLATE COURT.

If a driver is removed based on the findings of the departmental enquiry and also convicted in the First Court and in the event of his acquittal in the appellate Court, he will have a right of appeal on the removal order. The appeal should be submitted within one month from the date of the pronouncement of the judgment to the authority which has disposed off the previous appeal of the employee. The appeal should be accompanied with a certified copy of the judgment of the Court. The appellate authority will review the appeal in the light of the judgment and as per the guidelines indicated in pre-paras. In case of reinstatement in these cases, when acquittal is by Appellate Court, no back wages shall be paid. The period of absence shall however be treated as leave due”.

5. After the punishment of removal is imposed if employee is acquitted, appeal should be filed within one month from the date of pronouncement of the judgment of the criminal Court praying to review punishment on the guise of acquittal. A bare reading of the paragraph extracted above would show that the burden lies on the employee to file an appeal against removal from service. In the

case on hand, no such appeal was filed by the petitioner. Secondly, this circular can come into operation if the employee continues to be under the order of removal from service by the time he was acquitted. In the instant case, the revisional authority passed orders on 21.08.2009 modifying the punishment to that of reduction of pay by two incremental stages and the judgment of the Criminal Court acquitting the petitioner was made on 22.03.2010. Thus, by the time the petitioner was acquitted, he was not under the cloud of removal from service. Thus, the circular relied upon by the petitioner has no application. That may be the reason why the petitioner did not prefer appeal.

6 In view of the same, the Writ Petition is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

P.NAVEEN RAO, J

22nd July, 2016
sj