

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.37601 of 2014

ORDER:

Heard the learned counsel for the petitioner and Sri N.Vasudeva Reddy, learned Standing Counsel for the respondents.

2. This Writ Petition has been filed by the petitioner challenging the proceedings dt.25-10-2014 of 3rd respondent canceling reinstatement order issued to the petitioner on 23-08-2014 without any intimation or prior sanction of leave.

3. Disciplinary proceedings were initiated against the petitioner and punishment of removal from service was imposed on the petitioner on 15-03-2014.

4. Petitioner questioned it by way of appeal dt.03-07-2014 before 3rd respondent.

5. The 3rd respondent allowed the said appeal on 23-08-2014 and directed reinstatement of the petitioner taking a lenient view on humanitarian grounds on account of his unblemished record and the fact that he belongs to very poor and backward class family and directed him to be reinstated as Conductor subject to payment of fresh security deposit; and modifying the penalty into reduction of pay by one incremental stage with cumulative effect. He directed that the period from the date of removal to the date of performance of his duty on reinstatement at the RNG-I Depot be

treated as discontinuity in service for all purposes. Petitioner was asked to report to the depot posted within seven days from the date of receipt of the proceedings failing which his reinstatement order would stand cancelled.

6. On the ground that the petitioner did not report at RNG-I Depot, the 2nd respondent cancelled on 25-10-2014 the order dt.23-08-2014 directing his reinstatement.

7. Learned counsel for the petitioner contended that the petitioner had paid the security deposit on 24-09-2014 itself, that an acknowledgment receipt had also been issued by 1st respondent office to that effect and he was also examined on 04-10-2014 by 1st respondent-Hospital at Tarnaka and asked to avoid duty for some time and that was why the petitioner did not immediately report to the RNG-I Depot pursuant to the order dt.23-08-2014. It is also contended by the learned counsel for the petitioner that the petitioner retired from service on 30-11-2014 and if he is reinstated and allowed to retire on 30-11-2014, he would be entitled to at least retirement benefits.

8. In the counter affidavit filed on behalf of the respondents, it is stated that the petitioner neither reported to depot nor made any representation within the prescribed time of seven days mentioned in the proceedings dt.23-08-2014 of the 3rd respondent directing reinstatement. It is stated that the petitioner reported on 18-09-2014 at the office of the 4th respondent and took the letter to submit the

security deposit, but he did not submit any security deposit nor reported to 4th respondent depot. It is also stated that 4th respondent issued a letter dt.07-10-2014 informing that the petitioner had not provided security deposit and advised the petitioner to deposit immediately failing which further action would be taken.

9. Learned Standing Counsel for the respondents stated that there is no illegality in passing the impugned order as the petitioner did not report within prescribed time.

10. The stand taken by the respondent in the counter that the petitioner did not submit any security deposit is not correct in view of the receipt dt.24-09-2014 filed by the petitioner as Ex.P-9. More over the copy of the letter dt.07-10-2014 allegedly addressed by 4th respondent to the petitioner had not been placed on record.

11. Having regard to these facts and also the fact that even on 04-10-2014, the petitioner has visited APSRTC Hospital, Tarnaka and was advised to avoid duty for some time, I am of the opinion that the action of the respondents in not taking into account the serious ill-health of the petitioner (he had not only under gone surgery for kidney ailment but also angioplasty) and cancelling the order of the reinstatement dt.23-08-2014 by the impugned order is arbitrary unreasonable and cannot be sustained.

12. Accordingly, the impugned order dt.25-10-2014 passed by 3rd respondent is set aside and the respondents are directed to treat

the petitioner as having reported to duty on 24-09-2014 as Conductor in the 4th respondent Depot and to pay all retirement benefits treating the petitioner as having retired on 30-11-2014 within eight weeks from the date of receipt of a copy of this order subject to submission of claim forms by the petitioner.

13. With the above directions, the Writ Petition is allowed.
No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

Date: 16-11-2016
kvr

JUSTICE M.S.RAMACHANDRA RAO

