

THE HON'BLE SRI JUSTICE A.V. SESA SAI
WRIT PETITION No.18003 OF 2014

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“declaring the removal order passed by the 3rd respondent vide APSRTC No.P2/1(9)/2006-GPP, dated 18.05.2009 as confirmed by the order of the 2nd respondent dated 30.06.2011 vide proceedings No.PA/20(21)/2011 –Dy CTM-MR (received on 27.08.2014) removing the petitioner from service as illegal, arbitrary, violative of principles of natural justice and also violative of APSRTC's regulations and also the Circular instructions of the 1st respondent dated 18.07.2009 and set aside the same while directing the respondents herein to reinstate the petitioner into service with all consequential benefits including backwages forthwith in the interest of justice”.

When the matter is taken up, it is brought to the notice of this Court that in identical set of circumstances, this court in Writ Appeal No. 769 of 2005, passed an order on 05.04.2005 and the copy of the same is also placed on record. The operative portion of the order reads as under:

“In this background of the matter, We have no hesitation to observe that in the absence of a specific charge for the alleged unauthorized absence for the period from 16.10.2004 to 19.10.2004, passing of the proceedings impugned by taking into consideration the unauthorized absence for the said period without any charge or enquiry, amounts to depriving the opportunity of the delinquent to defend his case and it also amounts to arbitrariness.

In view of the above circumstances, we do not agree with the findings of the learned Single Judge that the proceedings passed by the 2nd respondent removing the petitioner for the absenteeism for the period from 06.8.2004 to 10.08.2004 as well as 16.10.2004 to 19.10.2004 is not in violation of the principles of natural justice and that the said period of absence from 16.10.1994 to 19.10.2004 might have been mentioned incidentally, and therefore, the order impugned herein, is liable to be set aside.”

Following the order passed in the said Writ Appeal, this writ

petition is allowed setting aside the order passed by the 3rd respondent, but in the facts and circumstances of the case, the petitioner is not entitled to consequential benefits including back wages and benefits.

No costs.

Miscellaneous petitions pending consideration, if any, in the writ petition shall stand closed in consequence.

A.V. SESA SAI, J.

Dt.29.03.2016.

BV