

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.P. No. 3525 OF 2006

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ORDER :
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This writ petition is filed seeking writ of mandamus declaring the action of the 1st respondent in issuing the proceedings No.Steno/19(105)/04-RM(G), dated 23.02.2005 in so far as imposing punishment of deferment of annual increment for a period of two years with cumulative effect and treating the suspension period from the date of removal till the date of reinstatement into service be treated as 'Not on duty' for leave and increments purpose as illegal and arbitrary and consequently to set aside the same.

2. It is the case of the petitioner that he was appointed as Conductor in the respondent Corporation on 05.05.1990. While the petitioner was performing his duties on 17.04.2004, the 3rd respondent gave complaint against him and he was issued with charge sheet dated 19.06.2004 with the following charges:

"For having re-issued luggage ticket bearing No.076/087714 to 715 of Rs.1.00 deno. At stage No.1 and issues shown against stage No.2 in 08.00 hrs, up journey trip from Tenali to Bhattiprolu on 17.4.2004 which were already issued at stage No.6 and issues shown against stage No.5 in 06.30 hrs down journey trip from Bhattiprolu to Tenali on 17.4.2004 with motivation for gaining by collecting back the tickets from a passenger while you were performing the 05.00 hrs., Bhattiprolu duty with bus No.4872 on 17.04.2004 which is a mis-conduct vide Regulations No.28 (xxiii) of APSRTC Employees (Conduct) Regulations, 1963".

3. The petitioner gave a detailed explanation to the said charge sheet denying the charges on 22.06.2004. However, the 3rd respondent without considering the facts and circumstances, appointed an enquiry officer to conduct enquiry into the charges. Though there was no evidence on record, the Enquiry Officer conducted an enquiry in gross violation of principles of natural

justice and made the petitioner guilty of the charges in his enquiry report dated 13.09.2004. Basing on the said report, the 3rd respondent issued show-cause notice of removal dated 24.09.2004. Thereafter, the petitioner was removed from service by proceedings of the 3rd respondent on 07.10.2004. The appeal filed by the petitioner was also rejected by the 2nd respondent on 20.10.2004. Thereafter, the petitioner preferred a review petition to the 1st respondent on 04.11.2004. The 1st respondent vide orders dated 23.02.2005 set aside the removal order passed by the 3rd respondent and petitioner was reinstated into service by taking a lenient view, modified the punishment removal from service into one for deferment of annual increment for a period of two years which shall have effect on future increments. Aggrieved by the same, the present writ petition is filed.

4. No counter affidavit is filed by the respondents.
5. Heard learned counsel for the petitioner and Sri P.Durga Prasad, learned Standing Counsel for the respondent Corporation.
6. Learned counsel for the petitioner submits that the Enquiry Officer has not conducted enquiry by following the due procedure, without affording an opportunity to the petitioner and gave a wrong finding. He further submits that there is possibility of mixing of tickets while issuing luggage tickets, as such, punishment imposed was disproportionate to the charges leveled against the petitioner and same requires interference by this Court.
7. On the other hand, Sri P. Durga Prasad, learned Standing Counsel appearing for the respondent Corporation submits that after conducting regular enquiry, removal order was passed by the 3rd respondent. The 1st respondent, by taking a lenient view reinstated the petitioner into service and imposed present punishment. He further submits that at any rate, this Court cannot interfere with the

findings arrived at by the Enquiry Officer and by following the same, order of dismissal was passed. The said finding is also reviewed in the appeal by the 2nd respondent, which was rejected by an order dated 20.10.2004. Thereafter, the petitioner preferred a review petition to the 1st respondent on 04.11.2004, wherein the present punishment was imposed by the 1st respondent.

8. In this case, it is to be seen that admittedly charges leveled against the petitioner are proved. The Enquiry Officer vide enquiry report dated 13.09.2004 clearly held that the charge leveled against the petitioner is proved. But the AM (T), Tenali and Traffic Supervisor Trainee, Tenali has categorically stated in his cross-examination that there is a possibility of wrong closing while mixing the tickets, if those ticket blocks pin is loose and the ticket blocks were put one block under another block. The same was not appreciated by the Enquiry Officer in the enquiry conducted by him. It is pertinent to note that the 1st respondent in his proceedings dated 23.02.2005 observed that present case is first against the petitioner. The statement of AM (T), Tenali and Traffic Supervisor Trainee, Tenali that there is a possibility of wrong closing gives some weight. Since the said statement of AM (T) is not taken into consideration by the 1st respondent while passing proceedings dated 23.02.2005, I deem it proper that punishment of deferment of annual increment for a period of two years with cumulative effect shall be modified into one for non-cumulative effect. Therefore, the punishment imposed by the 1st respondent is modified to the deferment of two annual increments without cumulative effect, without any monetary benefits up to the date of this order.

Accordingly, this writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

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Date: 25-02-2016

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