

THE HONB'E SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.4295 OF 2007

ORDER:

This writ petition is filed challenging the order dated 30.11.2006, passed by the 1st respondent-Divisional Manager on the ground that the first respondent is not the competent authority to pass the impugned order under the regulations of A.P.S.R.T.C Employees (CC&A) Regulations, 1967 (for short "the Regulations").

It is the case of the petitioner that he was appointed as a Conductor in 1978 and on 09.09.2006 while on duty there was a check conducted. Finding that there was cash and ticket irregularities, a charge sheet was issued to the petitioner on 20.09.2006. After a preliminary enquiry, petitioner was initially put under suspension and thereafter the suspension order came to be lifted by imposing the punishment of deferment of two normal increments and treating the period of suspension as not on duty for all the purposes and further directed the petitioner to approach the 1st respondent for the posting orders. Thereafter, when the petitioner approached the 1st respondent, the 1st respondent instead of issuing the posting orders, issued a show cause notice on 14.11.2006 for removal of the petitioner from service. The petitioner submitted his explanation to the show cause notice and having not satisfied with the explanation submitted by the petitioner, the 1st respondent issued the impugned proceedings removing the petitioner from service quoting the Regulation 8.1(vii) of the Regulations. It is the further case of the petitioner that the first respondent does not have the jurisdiction to propose to

enhance the punishment and inspite of the same, the impugned order came to be passed. Questioning the same, the present writ petition is filed.

The principal ground raised is that under Regulation 39 of the Regulations, the revision power can be exercised by an authority higher in rank than the appellate authority. Whereas in the present case, the first respondent-Divisional Manager is the appellate authority and as such the first respondent being the appellate authority cannot invoke the *suo motu* power under Regulation 30 of the Regulations. The conjoint reading of Regulations 29 and 30 of the Regulations leave no manner of doubt that the first respondent cannot invoke the revision power as it is only the Board under Regulation 30 of the Regulations, specified on its behalf the exercise of review of power can be undertaken. In the present case, learned Standing Counsel for the Corporation on verification submits that there was no such authorisation which has been granted to the Divisional Manager to exercise the review power by the Board Resolution. As a matter of fact, this Court by an order dated 08.02.1993 in W.P.No.1136 of 1993 had already held that the Divisional Manager being the appellate authority cannot review the order on its own. In those circumstances, the writ petition deserves to be allowed. However, as it is submitted by the learned counsel for both the parties that the petitioner has already retired from service on attaining the age of superannuation. As such consequent upon allowing the present writ petition, the petitioner's retirement benefits which he otherwise would have

been entitled in normal circumstances, shall be paid within a period of eight weeks from the date of receipt of copy of the order.

Accordingly, the writ petition is allowed setting aside the order dated 30.11.2006 passed by the 1st respondent-Divisional Manager. No order as to costs.

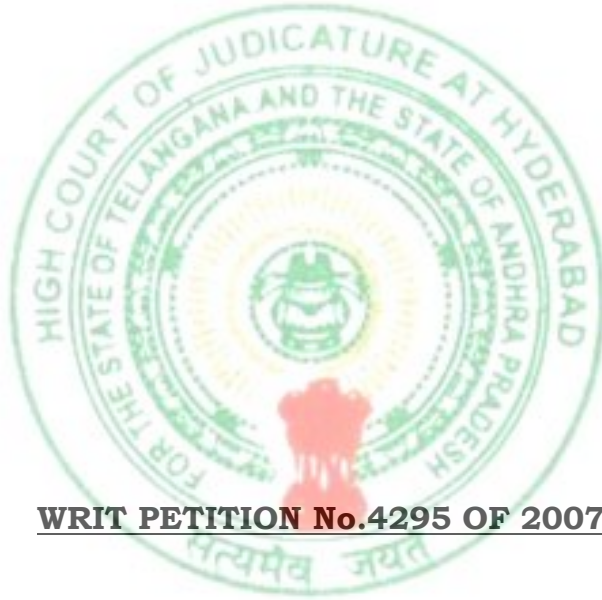
Miscellaneous Petitions, if any, pending in this writ petition, shall stand closed.

CHALLA KODANDA RAM,J

Date:08.12.2016,
Gk.



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