

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.4281 of 2008

ORDER:

In the present writ petition, challenge is to the order passed by the Regional Manager, A.P.S.R.T.C., Vizianagaram, Vizianagaram District vide proceedings No.Peshi/19(37)2005-RM-VZM dated 07.11.2005.

2. Heard and perused the material available before the Court.
3. Petitioner herein is a Mechanic in the respondent Road Transport Corporation. On 22.09.2004 the disciplinary authority issued a charge sheet framing the following charge:

"CHARGE: "For having maintained very irregular and bad attendance during the period from Jan' 04 to till date (L:138:09 A:24) Causing inconvenience to the Mechanical Supervisors for making alternative arrangements in your place and also caused inconvenience to the travelling public due to irregular attendance which constitutes mis-conduct as per Reg.28 (xxvii) of APSRTC Employees (Conduct) Regulations, 1963."

4. In response to the said charge sheet, petitioner herein submitted his explanation and having not satisfied with the said explanation, a regular enquiry was ordered by appointing an enquiry officer and the enquiry officer so appointed submitted his report holding the charge as proved. Thereafter, followed by a show-cause notice of removal dated 24.04.2004, the Disciplinary Authority vide proceedings No.M1/1(62)/04-SKT, dated 22.03.2005, passed an order removing the petitioner from service. Aggrieved by the said order, petitioner herein filed an appeal before the Regional Manager, Vizianagaram/first respondent herein. The first respondent appellate authority on the said appeal passed an order vide proceedings No.Peshi/19(37)2005-RM-VZM, dated 07.11.2005, modifying the punishment

as reduction of basic pay to the minimum in the time scale of Rs.3485-105-4430-115-5465-130-6505-145-8100 besides treating the period of absent from the date of removal till the date of reporting to duty as not on duty for the purpose of leave and increments. The said order is under challenge in the present writ petition.

5. According to the learned counsel for the petitioner, the impugned order passed by the first respondent appellate authority is highly erroneous, contrary to law and contrary to the Circular No.PD-97/I88, dated 20.09.1998. It is further contended by the learned counsel that the reduction of pay as ordered by the appellate authority is contrary to the above said Circular dated 20.09.1998 and also the judgment of this Court in *HENRY PAUL v. A.P. STATE CO-OPERATIVE BANK LTD., HYD*¹.

6. On the contrary, it is submitted by the learned Standing Counsel Sri S.V.Ramana representing the respondents that though the charge framed against the petitioner attracts the punishment of termination from service, the appellate authority taking a lenient view, modified the punishment inflicted by the disciplinary authority and the punishment imposed on the petitioner herein is permissible as per A.P.S.R.T.C C.C.A Regulations and even according to the Circular dated 20.09.1988 there is no absolute bar.

7. Admittedly, in the present case, the enquiry officer categorically found against the petitioner herein during the course of enquiry and found the charge as proved and basing on the said finding the disciplinary authority had terminated the petitioner from service, but the appellate authority/first respondent herein obviously taking a lenient view reduced the punishment. In fact, the Circular on which reliance is placed by the petitioner herein is filed along with the writ petition as a material paper. Even as per the Circular

¹ 2011 (6) ALD 732

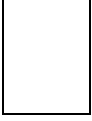
there is no absolute bar on imposition of punishment of this nature. In fact, as per Regulation 8 (1) (viii) punishment of this nature is permissible having regard to the nature of allegations. The judgment cited by the learned counsel for the petitioner in *HENRY PAUL B (supra)* would not render any assistance to the petitioner herein in view of the facts and circumstances and having regard to the nature of allegations against the petitioner herein.

8. For the aforesaid reasons, this Court does not find any merit in the present writ petition. Accordingly, the writ petition is dismissed. However, it is made clear that the amount paid to the petitioner pursuant to the interim orders of this Court shall not be recovered from the petitioner. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

Date: 13.07.2017
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A.V.SESHA SAI, J



THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.4281 of 2008

Dated: 13.07.2017

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