

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.13833 OF 2017

DATED : 19.04.2017

Between :

O.Muthaiah S/o.Swamy,
Aged about 55 yrs, Driver, TSRTC,
E 825115, Manugur depot,
Manugur R/o.Vinodha Nagar,
Khammam District.

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Petitioner

And

Telangana State Road Transport Corporation,
Rep., by its VC & MD Musheerabad,
Hyderabad & others.

..

Respondents



This court made the following :

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ORDER :

Heard.

2. Petitioner was driver of the respondent-Corporation. Disciplinary proceedings were initiated against him on the allegation that he absented from duties. The disciplinary action resulted in imposing the punishment of removal from service by order dated 14.09.2015 of the disciplinary authority. Appeal preferred by the petitioner was rejected by the appellate authority. On review the reviewing authority while confirming the disciplinary action taken against the petitioner, takes a lenient view and modifies the punishment imposed by the disciplinary authority. The reviewing authority directs reinstatement of the petitioner into service, to appoint him as driver Gr-II afresh. This direction to treat his appointment as afresh is challenged in this writ petition.

3. The challenge is primarily on the ground that the Discipline and Appeal Regulations (for short 'the Regulations') did not prescribe punishment of appointment afresh and reviewing authority while exercising disciplinary control in accordance with the Regulations could not have imposed punishment which is not prescribed in the Regulations.

4. This issue is no more *res integra*. This Court in W.P.No.38542 of 2014 relying on the judgment reported in ***K.C.Narayana Vs Managing Director, APSRTC***¹ held that no punishment can be imposed which is not prescribed in the Regulations of the respondent-Corporation.

¹ 2007 (5) ALD 416

5. Having regard to the principle of law settled on the issue, both counsel agree for setting aside the order of the reviewing authority and remitting the matter to the reviewing authority for consideration of the review petition and to pass appropriate orders strictly in compliance of the provisions of the Regulations.

6. Following the said decision in W.P.No.38542 of 2014, and having regard to the principle of law laid down and submissions made by the learned counsels the writ petition is allowed and the order impugned is set aside. The matter is remitted to the reviewing authority for consideration of the review petition afresh and imposing appropriate punishment as warranted by the Discipline and Appeal Regulations. However, since petitioner is already inducted into service and is working he shall not be disturbed until orders are passed as directed above. Since the reviewing authority has already taken a lenient view with reference to the punishment earlier imposed by the disciplinary authority, it is needless to observe that while imposing punishment he shall impose punishment other than removal from service. There shall be no order as to costs.

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

19th April, 2017
Rds

P.NAVEEN RAO,J