

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT APPEAL No.386 OF 2017 & WRIT PETITION No.4263 OF 2017

COMMON JUDGMENT: (Per Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This Appeal, under clause 15 of Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. M.P. No.5132 of 2017 in Writ Petition No.4263 of 2017 dated 10.02.2017.

The appellant herein is the petitioner in the Writ Petition. It is his case that, against the order of removal from service dated 23.07.2004, for un-authorized absence from duty, he had preferred an appeal in the year 2012, which is still pending before the 2nd respondent-Divisional Manager; and the 2nd respondent ought to have considered and disposed of the appeal preferred by him. The learned Single Judge has, in the order under appeal, noted that the petitioner's request to consider his appeal was rejected in the year 2015, and the balance of convenience was not in favour of the petitioner. The W.P. M.P. was dismissed.

Sri Ch.V. Prasad Babu, learned counsel for the appellant-writ petitioner, would submit that, while the appeal was no doubt preferred to the Divisional Manager on 04.10.2012, more than 8 years after the order of removal was passed on 27.03.2004, the fact remained that the said appeal is still pending consideration before the Divisional Manager, who is the appellate authority; and, instead of keeping the Writ Petition pending on the file of this Court, it would suffice if the Divisional Manager is directed to dispose of the appeal within a specified time frame.

Sri N. Vasudeva Reddy, learned Standing Counsel for the T.S.R.T.C., would submit that an appeal, preferred 8 years after the order of punishment was passed, cannot be entertained; the time limit specified for preferring an appeal is two months; and it is evident from the proceedings of the Deputy Chief Personnel Manager (R, T&W), addressed to the Deputy Chief Personnel Manager, GH Zone, dated 08.12.2015, that the appeal cannot be considered.

It is not in dispute that the appellate authority, for employees in the cadre to which the petitioner was hitherto employed, is the Divisional Manager. Whether the appeal should be entertained or not, whether or not the delay should be condoned etc., are all matters for the appellate authority to decide. A letter addressed by the Deputy Chief Personnel Manager (R, T&W) to the Deputy Chief Personnel Manager, GH Zone, on 08.12.2015 cannot be construed as rejection of the appeal by the competent authority *i.e.*, the Divisional Manager.

We consider it appropriate, therefore, to dispose of both the Appeal and Writ Petition directing the 2nd respondent to consider the petitioner's appeal, in accordance with law, and pass orders thereon, at the earliest, preferably within two months from the date of receipt of a copy of this order. It is made clear that we have not expressed any opinion on the question whether or not the appeal, preferred 8 years after the order of punishment, can be entertained by the appellate authority, as these are all matters for the appellate authority to consider in accordance with applicable statutory Rules governing the service conditions of employees in the T.S.R.T.C.

Both the Writ Appeal and Writ Petition are, accordingly, disposed of. As a sequel, pending miscellaneous petitions, if any, shall stand disposed of. No order as to costs.

RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J

Date: 28-03-2017.
DSH/SIVA



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W.A. No.386 OF 2017 & W.P. No.4263 OF 2017

(Common Judgment of the Division Bench delivered by
Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Date. 28-03-2017

DSH/SIVA