

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

AND

HON'BLE DR. JUSTICE SHAMEEM AKTHER

W.P. No.4985 of 2013

ORDER : (ORAL)

(per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition the petitioners have assailed the order, dated 31.1.2013 passed in O.A.No.892 of 2012, whereby the learned Tribunal passed the order as under :

“Reply not filed in spite of giving several opportunities from 2.8.2012. No doubt, the reply was initially filed questioning the jurisdiction of the Tribunal to entertain the O.A., but, we are of the prima facie opinion that this Tribunal has jurisdiction.

It is a case of a driver, who was on probation was removed on the last date of probation for minor violation of allegedly allowing another driver to sit in the vehicle and filling up fuel without proper permission.

Allowing another driver, who belongs to same department and filling up fuel, without which vehicle cannot run would not be such serious lapses for removing a driver from service. The impugned order, dated 20th July, 2012 is suspended. The applicant shall be taken back to service forthwith.

Post the matter after three weeks for filing counter.”

2. We note vide order dated 9.10.2012, the learned Tribunal passed the order as under :

“Admit.

Reply is filed. As the pleadings are completed, post for final hearing in usual course.”

3. We note vide order dated 9.10.2012, O.A. filed by the respondent No.1 was admitted and the matter was directed to be posted for final hearing in usual course. Thereafter, the matter was taken on 31.1.2013, whereby the order dated 20th July, 2012 was suspended.

4. Being aggrieved, petitioners filed the present petition and vide order dated 20.2.2013, this Court stayed the order dated 31.1.2013 passed in O.A.No.892 of 2012.

5. It is not in dispute that O.A. is still pending, which is evident from the order dated 31.1.2013. It is also not in dispute that the respondent No.1 was removed from service on 20.7.2012 and he continued to be out of service till 31.1.2013, the date on which the Tribunal has passed the order as mentioned above.

6. We are of the considered opinion that the order passed by the Tribunal on 31.1.2013 by suspending the order dated 20.7.2012 is not proper. The learned Tribunal has passed the impugned order without giving opportunity to other side.

7. Accordingly, we hereby set aside the order, dated 31.1.2013 passed in O.A.No.892 of 2012. The learned Tribunal is directed to adjudicate O.A. by giving opportunity to both sides within six months from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition is disposed of. No order as to costs.

9. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE SURESH KUMAR KAIT

Dr. JUSTICE SHAMEEM AKTHER

08th June, 2017
skmr