

*IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH*

WRIT APPEAL No.1434 of 2017

Between:

B.Nagabhushanam,
S/o Chinnaveeranna

... Appellant

And

The Regional Manager, APSRTC,
Kurnool and another.

... Respondents

JUDGMENT PRONOUNCED ON 22.9.2017

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SMT JUSTICE K.VIJAYA LAKSHMI

1. Whether Reporters of Local newspapers : No
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : Yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : Yes

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE K.VIJAYA LAKSHMI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SMT JUSTICE K.VIJAYA LAKSHMI

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< Gist:

> Head Note:

! Counsel for the Petitioner: Mr. R.Ramanjaneyulu

? Cases Referred:

1. (2012) 1 SCC 442

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SMT JUSTICE K.VIJAYA LAKSHMI

WRIT APPEAL No.1434 of 2017

Date:22.9.2017

Between:

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..... Appellant

And:

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....Respondents

Counsel for the appellant: Mr. R.Ramanjaneyulu

The Court made the following:



JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

Feeling dissatisfied with the relief granted by the respondents, who, obviously, as a grace reinstated the appellant as Conductor afresh, despite his removal in the disciplinary proceedings earlier, the latter has approached this Court by filing Writ Petition No.8722 of 2011. A learned single Judge, on considering the facts of the case in their entirety and the law applicable to it, dismissed the said Writ Petition, vide order, dated 07.8.2017. Assailing the said order, the appellant filed this Writ Appeal.

It is not in dispute that the appellant, a Conductor in A.P.State Road Transport Corporation, was arraigned as accused No.1 in a criminal case registered *inter alia* for the offence under Section-302 I.P.C. Following the registration of the criminal case, he was placed under suspension by order, dated 28.6.2007. A charge memo was issued framing three charges against the appellant. While charge No.1 pertains to his alleged involvement in the criminal case, charge No.2 was with respect to his alleged failure to intimate the competent authority regarding his arrest and remand to judicial custody and under charge No.3, he was alleged to have cheated the respondent-Corporation by obtaining medical directing letter from the

Depot Manager's Office on 01.6.2007 along with E.D. pass, for medical treatment of himself and his wife, by hiding the real facts. In the domestic enquiry, he was found guilty of the said charges and, accordingly, the disciplinary authority passed an order on 02.6.2008 removing him from service. Both the Appeal and the Revision filed by the appellant ended in dismissal and thereby, the order of his removal has attained finality. Thereafter, the appellant was acquitted in the criminal case. He has filed Writ Petition No.25097 of 2010 challenging his suspension, charge sheet and the consequential orders passed by the disciplinary, appellant and revisional authorities. This Court by order, dated 28.10.2010, disposed of the said Writ Petition granting liberty to the appellant to make a representation claiming appropriate reliefs based on judgment, dated 06.4.2010, of the learned II Additional Sessions Judge, Kurnool at Adoni in Sessions Case No.46 of 2009. By his order, dated 15.3.2011, the Regional Manager of the respondent-Corporation ordered that the appellant shall be reinstated into service as fresh Conductor with immediate effect subject to the following conditions:

- “1. He shall pay a fresh security deposit before joining duty.

2. His basic pay shall be fixed as the MINIMUM PAY in the time scale of Conductor Gr.II.
3. He shall report for duty within one week from the date of receipt of the proceedings failing which the same will be treated as cancelled.”

As noted hereinbefore, being dissatisfied with the said order, the appellant filed Writ Petition No.8722 of 2011. While dismissing the said Writ Petition, the learned single Judge applied the legal position as reflected in *Divisional Controller, Karnataka State Road Transport Corporation Vs. M.G.Vittal Rao*¹ and held that an employee is not entitled to restoration of office only on the strength of his acquittal in a criminal case for, the standard of proof in criminal case is more stringent than that in the disciplinary proceedings and that charge Nos.2 and 3 though remotely are connected to his involvement in the criminal case, they have independent basis and that the appellant having been found guilty of those charges, he is not entitled for reinstatement. The learned single Judge has, therefore, held that the relief granted by the respondents is appropriate on the facts of the case and declined to grant further relief to the appellant.

At the hearing Mr. R.Ramanjaneyulu, learned counsel for the appellant, submitted that reinstatement as a fresh Conductor

¹ (2012) 1 SCC 442

is not one of the penalties envisaged in the Conduct Regulations of the respondent-Corporation and as such, the impugned order is not sustainable. We do not find any merit in this submission. In our opinion, the order impugned in the Writ Petition cannot be treated as an order imposing penalty on the appellant. Indeed, the order of removal of the appellant from service has attained finality. Even this Court in Writ Petition No.25097 of 2010 filed by the appellant did not set aside the said order. By order, dated 28.10.2010, the learned Single Judge has only permitted the appellant to make a representation following his acquittal in the criminal case with a direction to the Corporation to consider such representation within two months from the date of the said order. Therefore, we have to perceive the order appointing the appellant as fresh Conductor as a decision taken by the Corporation afresh *de hors* the earlier order of removal. The said order, in our opinion, is a result of a gracious gesture shown by the respondents, which, if set aside would only be at the appellant's peril as, he would not be entitled to any better order than that.

For the afore-mentioned reasons, the Writ Appeal fails and the same is, accordingly, dismissed.

As a sequel, WAMP.No.2683 of 2017 is dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE K.VIJAYA LAKSHMI

22nd September 2017

Note:

LR copies to be marked.

B/o

DR

