

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

W.P.No.22606 of 2006

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, questioning the order passed by the Regional Manager, West Godavari Region, Eluru-1st respondent vide proceedings dated 20.9.2001.

2. The petitioner herein is a Conductor in Andhra Pradesh State Road Transport Corporation (for short "Corporation"). The Depot Manager, Tadepalligudem issued a charge sheet on 10.4.2000, framing the following charges against the petitioner.

1. For having quarrelled and disobedience with Sri D.Siva Prasada Rao, Chief Inspector, TP Gudem for not granting of leave to you for 21.3.2000 though the C.I. TPG has informed in person that your leave not granted on account of acute position of conductors, which constitute misconduct under Reg. 28(viii) of APSRTC Employees (Conduct) Regulations 1963.
2. For having disorderly behaved/intimidation in the premises of Traffic Section with the Chief Inspector, TP Gudem who is your Senior Supervisor on 20.3.2000 on account of not granting of leave to you for 21.3.2000, which constitute misconduct under Reg. (xviii) of APSRTC Employees (Conduct) Regulations 1963.
3. For having failed to report your grievance i.e. non-granting of leave for 21.3.2000 by the C.I. TPG to the immediate next higher official i.e. Depot Manager, TP Gudem who is available in Hqs. on 20.3.2000, which constitute misconduct under Reg. 28(xvii) of APSRTC Employees (Conduct) Regulations 1963."

3. Subsequently, after submission of explanation by the petitioner, an Enquiry Officer was appointed and he submitted a report on 19.9.2000 and thereafter vide impugned proceedings dated 20.1.2000, the disciplinary authority ordered removal of the petitioner from service.

Challenging the said order of removal, petitioner filed appeal before the appellate authority and the appellate authority-Deputy Chief Traffic Manager, West Godavari Region, Eluru (2nd respondent herein) vide proceedings dated 15.11.200, rejected the said appeal. Thereafter, petitioner filed review petition before the Regional Manager, West Godavari Region-1st respondent herein and the 1st respondent vide impugned order dated 20.9.2001 partly allowed the review and modified the punishment to that of deferment of annual increment for a period of two years which would have the effect of postponement of future increments while ordering that the period of absence i.e. from the date of removal to the date of reinstatement be treated as “not on duty” for the purpose of leave and increments. In the above background, the present writ petition came to be filed.

4. On 1.11.2006, this Court admitted the writ petition and a counter is also filed by the respondents.

5. Heard Sri Ancha Panduranga Rao, learned counsel for the petitioner and Sri S.V.Ramana, learned Standing Counsel for the respondent-Corporation, apart from perusing the material available on record.

6. It is contended by the learned counsel for the petitioner that the order of the 1st respondent to the extent of not setting aside the order of removal is highly illegal, arbitrary, unreasonable, violative of Article 14 of the Constitution of India and opposed to the very spirit and object of APSRTC (CCA) Regulations; that the witnesses examined on behalf of the Management were interested witnesses and were not present at the time of alleged incident and in view of the same, benefit of doubt should have been extended in favour of the petitioner and the respondents ought to

have completely exonerated the petitioner; that the punishment inflicted is shockingly disproportionate.

7. On the contrary, it is contended by the learned Standing Counsel for the Respondent Corporation that there is no illegality nor there is any procedural infirmity in the impugned action and in the absence of the same, the present writ petition is not maintainable and the petitioner is not entitled for any relief from this Court under Article 226 of the Constitution of India; that the 1st respondent took a lenient view and modified the punishment, as such, no interference under Article 226 of the Constitution of India is warranted in the absence of any perversity in the impugned order; that this Court cannot re-appreciate the evidence as an appellate authority; that the alternative remedy under Section 10-C of the Industrial Disputes Act, 1947 is available and in view of the same, the present writ petition is not maintainable.

8. In the above background, now the issue that emerges for consideration of this court is-

“Whether there is any infirmity in the questioned order and whether the petitioner is entitled for any relief from this Court under Article 226 of the Constitution of India?

9. The Respondent Corporation is that one Sri D.S.Prasada Rao, Chief Inspector of TPG Depot made a complaint on 21.3.2000 to the Depot Manager, Tadepalligudem, stating that the petitioner indecently misbehaved with him on 20.3.2000 at 19.30 hours on the ground that he did not grant leave to the petitioner and on such complaint, a preliminary enquiry was conducted by the Chief Inspector, Bhimavaram and he submitted a report dated 28.3.2000 and concluded that the petitioner misbehaved with Chief

Inspector, Tadepalligudem on 20.3.2000. It is the further case of the respondents that the statements of Sri G.S.Rao, E.Satya Rao, ADCs and Sri L.V.Raghava Rao, TI-III who were present at the spot, proved the conduct of the petitioner.

10. On the other hand, it is the case of the petitioner that no incident as alleged took place on 20.3.2000 and that he only requested the Chief Inspector to grant leave, but not misbehaved as alleged and that the witnesses examined on behalf of the management were not present at the time of alleged incident and that the authorities grossly erred in discarding the evidence of Sri A.M.Rao, Conductor who was examined on his behalf.

11. In this case, admittedly a regular enquiry was conducted and the Enquiry Officer appointed by the disciplinary authority recorded the statements of Assistant Depot Clerks namely Sri G.S.Rao and E.Satya Rao and Sri L.V.Raghava Rao, Traffic Inspector Gr.III and basing on the statements made by the said individuals, the enquiry officer submitted report against the petitioner and based on the same, the disciplinary authority passed the order of removal. After availing the remedy of appeal unsuccessfully, the petitioner herein filed review before the Regional Manager and the Regional Manager, after taking into consideration the conclusions of the disciplinary authority and seriousness of the allegations and also obviously taking a lenient view, modified the punishment of removal to that of deferment of annual increment for a period of two years which shall have the effect of postponement of future increments while ordering that the period of absence i.e. from the date of removal to the date of reinstatement be treated as "not on duty". As contended by the learned Standing Counsel, this Court in exercise of the jurisdiction under Article 226 of the Constitution

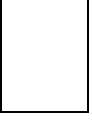
of India, cannot sit over the orders passed by the Respondent authorities as an appellate authority. This Court does not find any perversity in the orders passed by the 1st respondent-Regional Manager.

12. In view of the above reasons, the writ petition is dismissed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 11.8.2017
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



11.8.2017

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