

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 13795 OF 2007

ORDER :

Heard Sri S.M.Subhan, learned counsel for the petitioner and Sri A.Rama Rao, learned standing counsel for APSRTC appearing on behalf of the respondents.

2. It has been contended by the petitioner that he was appointed as Driver in the respondents corporation in the year 1974 and while continuing at Koilakuntla Depot on 26-3-2006 a mob was taking procession and most of them were in intoxicated condition and, though he was driving the vehicle slowly, a person in an intoxicated condition fell down on the road and due to road injury he died, but as the bus is coming they shouted that the bus hit the said person. On the charge of rash and negligent in driving, he was removed from service by the 2nd respondent vide orders dated 28-7-2006. The appellate authority confirmed the same. The Review authority, by considering the case of the petitioner, ordered for fresh appointment by denying the past service, which is unjust as the said allegation was not proved before the trial court. The petitioner herein filed Review appeal before the 1st respondent herein by requesting him to reconsider his case and to set aside the punishment, keeping in view of the acquittal of the very charge, which was ended in acquittal, but, till date, the 1st respondent herein failed to pass any orders, for which the petitioner herein has constrained to approach this Hon'ble Court.

Aggrieved by the denying the past service, the present writ petition is filed.

3. Learned counsel for the petitioner has contended that the reviewing authority has not reconsidered the case of the petitioner to set aside the punishment keeping in view of the acquittal of the very charge, which was ended in acquittal. The order of removal is contrary to the Regulations governing employees of the Corporation and as the Regulations did not provide for imposition of punishment of appointment as Driver afresh, no such punishment could have been imposed. To strengthen his argument, he relied upon a judgment of this Court in ***K.C.Narayana Vs. Managing Director, APSRTC, Hyderabad and others***¹, wherein it is held as under:

“In view of the judgment of the Supreme Court in T.J.Paul’s case (supra), the earlier judgments of this Court taking a contrary view must be held no longer as good law and as a result the impugned order of the reviewing authority, appointing the petitioner as a conductor afresh, must necessarily be set aside and the matter remanded to the 2nd respondent for his consideration on the question of penalty.

The impugned order of the 2nd respondent is, accordingly, set aside and he is directed to examine the records and determine the appropriate punishment to be imposed on the petitioner strictly in accordance with the A.P.S.R.T.C. Employees (Classification, Control and Appeal) Regulations, 1967, within a period of four months from the date of receipt of a copy of this Court. Needless to state that, since the petitioner has been continuing pursuant to the earlier order of the Reviewing Authority to appoint him afresh as a Conductor, status quo as on today shall continue till final orders are passed by the 2nd respondent on the punishment to be imposed on the petitioner herein.”

¹ 2007 (5) ALD 416

4. Per contra, learned standing counsel for the respondents-corporation has contended that taking a lenient view, the reviewing authority has directed reinstatement of the petitioner as Driver afresh and that can never be treated as arbitrary and illegal and the same cannot be challenged in the Court of law.

5. I have considered the rival submissions made by the learned counsel for the parties and perused the record as well as the judgment of this Court relied upon by the learned counsel for the petitioner. I am of the considered view that the writ petition can be disposed of in terms of the judgment of this Court cited supra. The impugned order passed by the reviewing authority is, accordingly, set aside and the matter is remanded back to the reviewing authority to take appropriate decision and impose lesser punishment than that of removal, in accordance with the Regulations of the Corporation, within a period of four (4) weeks from the date of receipt of a copy of this order.

6. The writ petition is, accordingly, disposed of. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

19th November, 2018

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