

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 3654 of 2011

ORDER:

Heard Sri P. Govindarajulu, learned counsel for the petitioner, and learned standing counsel for TSRTC appearing on behalf of the respondents.

2. It is stated that the petitioner was appointed as Driver in the respondent corporation on 01.10.1983. While so, on the allegation that he unauthorisedly absented for duties from 18.06.2007 to 26.07.2007, a charge sheet was issued against him on 30.07.2007, for which he submitted explanation on 13.08.2007, but the disciplinary authority, without considering his explanation, ordered departmental enquiry into the charge leveled against him. After conducting the departmental enquiry and initiating disciplinary proceedings, after lapse of one year, the disciplinary authority had imposed on him a major punishment of removal from service vide orders dated 16.05.2008 on the allegation that he again absented for duties from 11.12.2007 to 18.12.2007. Aggrieved thereby, he preferred an appeal and the same was

rejected on 22.09.2008 and, thereafter, he filed a review petition before the reviewing authority, 2nd respondent. The reviewing authority directed the respondent corporation to reinstate him as fresh Driver vide orders dated 12.11.2008. Aggrieved by the denial of continuity of service, back wages and other attendant benefits, the present writ petition is filed.

3. Learned counsel for the petitioner has contended that the reviewing authority had modified the order of removal 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 others¹, 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

¹ 2007 (5) ALD 416

(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."

4. Per contra, learned standing counsel for the respondent 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. No costs.

7. Miscellaneous petitions, if any, pending shall stand closed.

ABHINAND KUMAR SHAVILI, J

16.11.2018

Mjl/*

