HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.26317 of 2003

ORDER

Heard Sri G.Ravi Mohan, learned counsel appearing for the petitioner, and Sri A. Rama Rao, learned Standing Counsel for APSRTC appearing on behalf of the respondents.

It is the case of the petitioner that he was appointed as Driver in the respondent corporation on 15.11.2006. While he was performing his duties on 13.02.2000, accident took place, for which a charge sheet was issued to him on the same date. His conduct was construed as misconduct by the respondent-Corporation and after initiating disciplinary proceedings and after conducting a departmental enquiry, the disciplinary authority had imposed on him a major punishment of removal from service *vide* order dated 30.10.2000. Aggrieved thereby, he preferred an appeal before the appellate authority and the same was rejected on 22.01.2001 and, thereafter, he filed a review petition before the 2nd respondent. The 2nd respondent *vide* order dated 18.6.2001 reinstated the petitioner into service imposing certain terms and conditions. Aggrieved by the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contends 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 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.***
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> ***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."***

Per contra, learned Standing Counsel appearing for the respondent-Corporation contends that taking a lenient view, the reviewing authority has directed reinstatement of the petitioner as casual Driver afresh and that can never be treated as arbitrary and illegal and the same cannot be challenged in the Court of law.

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[1] 2007 (5) ALD 416

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 directing it to examine the records and determine the appropriate punishment to be imposed on the petitioner, 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.

The writ petition is, accordingly, disposed of.

Miscellaneous petitions, if any, pending shall stand closed. No costs.

JUSTICE ABHINAND KUMAR SHAVILI

4th October, 2018
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HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते