

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25739 of 2003

ORDER:

Heard Smt.K.Udaya Sri, learned Counsel for petitioner and Sri B.Mayur Reddy, learned Standing Counsel for APSRTC.

It has been contended by the petitioner that he was appointed as Conductor in the respondent-Corporation on 18.05.1992. On 09.02.1996, while he was on duty, it was found that 14 passengers travelling in his bus, were without tickets. Therefore, a charge memo was issued to him on 09.02.1996. 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 orders dated 15.06.1996. Aggrieved thereby, he preferred an appeal before the Divisional Manager and the same was rejected on 25.01.1997 and, thereafter, he filed a review petition before the 3rd respondent. The reviewing authority, vide orders dated 27.03.1997, directed the respondent-Corporation to reinstate him into service as a fresh Conductor and postponed annual increments for a period of 2 years with cumulative effect and also ordered that the intervening period from the date of removal to the date of joining shall be treated as 'not on duty' for the purpose of leave, gratuity, increments etc. Aggrieved by the orders of revisional authority insofar as imposing the punishment of postponing the increments for a period of 2 years and also with regard to treating the period from the date of removal to the date of joining as 'not on duty',

he approached the Industrial Tribunal by filing I.D.No.106 of 1998, which was dismissed. Therefore, the present writ petition is filed.

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 Conductor 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.”

Per contra, learned Standing Counsel for the respondent-Corporation has contended that taking a lenient view, the reviewing

¹ 2007 (5) ALD 416

authority has directed reinstatement of the petitioner as Conductor afresh and that can never be treated as arbitrary and illegal and the same cannot be challenged in the Court of law.

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.

The writ petition is accordingly disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

19th December 2018

ajr