HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 24476 of 2009

ORDER:

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

2. It has been contended by the petitioner that he was appointed as Conductor in the respondent corporation in the year 1989. While so, he was absent from duties owing to ill-health and personal problems. 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 a major punishment of removal from service vide orders dated 01.03.2008. Aggrieved thereby, he preferred an appeal before the Deputy Chief Traffic Manager, Kurnool Region, 3rd respondent herein, who modified the punishment of removal from service to that of reduction of pay by two incremental stages with cumulative effect vide orders dated 17.09.2008. As he was unable to report for duty within the stipulated time and he submitted representation after completion of four months, the proceedings of the appellate authority stood cancelled vide proceedings of the 2nd respondent dated 30.01.2009. Thereafter, he filed a review petition before the 2nd respondent. The reviewing authority directed the respondent

corporation to reinstate him into service as fresh Conductor vide orders dated 26.06.2009. The same is challenged in this writ petition.

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 afresh as Conductor, 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], whereunder 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."*

4. Per contra, learned standing counsel for the respondent corporation has contended that taking a lenient view, the reviewing

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[1] 2007 (5) ALD 416

authority has directed appointment 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.

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.

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ABHINAND KUMAR SHAVILI, J

28th September, 2018
cbs

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते

Writ Petition No. 24476 of 2009
(disposed of)

28th September, 2018

cbs