

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION No. 26859 of 2008**

**ORDER:**

This writ petition is filed seeking to issue a writ of certiorari calling for the record relating to and connected with I.D.No.70 of 2007 on the file of the 1<sup>st</sup> respondent – Labour Court and quash the order dated 11.08.2008 passed therein holding it as illegal and arbitrary.

2. Heard Sri G. Ravi Mohan, learned counsel for the petitioner, and learned standing counsel for APSRTC appearing on behalf of the 2<sup>nd</sup> respondent.

3. It has been contended by the petitioner that he was appointed as Driver in the 2<sup>nd</sup> respondent corporation in the year 1979. While so, on the allegation that he allowed unaccompanied luggage of 10 kgs without proper luggage ticket or permit, a charge sheet was issued against him on 25.09.1993, for which he submitted explanation, 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, the disciplinary authority had imposed on him a major punishment of removal from service vide orders dated 10.08.1993. Aggrieved thereby, he preferred an appeal and the appellate authority rejected the said appeal on 21.02.1994. Thereafter, petitioner preferred an review petition before the 2<sup>nd</sup> respondent and the 2<sup>nd</sup> respondent passed orders dated 05.11.1994 reinstating the

workman into service with minimum pay scale but without continuity of service and backwages. Questioning the same, he raised a dispute through Union before the 1<sup>st</sup> respondent-Labour Court in I.D.No.70 of 2007. The Labour Court, without appreciating any of the contentions raised by him, dismissed the petition, vide order dated 10.07.2009. The same is questioned in this writ petition.

4. Learned counsel for the petitioner has contended that the revisional authority had modified the order of removal contrary to the Regulations governing employees of the APSRTC and as the Regulations did not provide for imposition of punishment of reinstating the workman into service with minimum pay scale, without continuity of service and backwages, 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***<sup>1</sup>, 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 2<sup>nd</sup> respondent for his consideration on the question of penalty.*

*The impugned order of the 2<sup>nd</sup> 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*

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<sup>1</sup> 2007 (5) ALD 416

*appoint him afresh as a Conductor, status quo as on today shall continue till final orders are passed by the 2<sup>nd</sup> respondent on the punishment to be imposed on the petitioner herein.”*

4. Per contra, learned standing counsel for the 2<sup>nd</sup> respondent corporation has contended that taking a lenient view, the revisional authority has directed reinstatement of the petitioner into service with minimum pay scale and without continuity of service and backwages 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 revisional authority is, accordingly, set aside and the matter is remanded back to the revisional authority for passing appropriate orders, in accordance with the Regulations of the respondent 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**

28<sup>th</sup> November, 2018  
dv

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 26859 of 2008  
(disposed of)

28<sup>th</sup> November, 2018

dv