

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.16838 of 2004ORDER:

Heard Sri P.Govindarajulu, 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 Driver in the respondent-Corporation in the year 1992. While so, on the allegation that he failed to attend duties from 25.11.2001, a charge sheet was issued to him on 06.12.2001, for which he submitted his 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 departmental proceedings, the disciplinary authority had imposed on him a major punishment of removal from service, vide orders dated 04.05.2002. Aggrieved thereby, he preferred an appeal and the same was rejected on 16.12.2002, and thereafter, he filed a review petition before the reviewing authority, 2nd respondent. The reviewing authority directed the respondent-Corporation to reinstate the petitioner into service as fresh Driver, vide orders dated 09.05.2003. Aggrieved by the denial of continuity of service, back wages and other attendant benefits, the present writ petition is filed.

3. The 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 the 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 v. MANAGING DIRECTOR, APSRTC, HYDERABAD AND OTHERS, 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.

4. 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.”

5. Per contra, the Standing Counsel for the respondent-Corporation has contended that taking a lenient view, the reviewing authority had 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.

6. I have considered the 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 weeks from the date of receipt of a copy of this order.

7. The writ petition is accordingly disposed of. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.



ABHINAND KUMAR SHAVILI, J

Date: 30.10.2018
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