

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 13997 of 2010

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.136 of 2005 on the file of the 1st respondent – Labour Court and quash the order dated 10.07.2009 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 2nd respondent.

3. It has been contended by the petitioner that he was appointed as Mechanic in the 2nd respondent corporation in the year 1981. While so, on the allegation that he threatened and demanded Rs.20,000/- from one Sri T. Rangaiah, driver of Jammalamadugu depot, to issue scheduled tribe caste certificate and received Rs.14,000/- from him in the presence of other employees, a charge sheet was issued against him on 18.07.2003, 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 16.12.2003. Aggrieved thereby, he preferred an appeal and the appellate authority

modified the order of removal to that of fresh appointment as mechanic with minimum basic pay, vide orders dated 01.04.2004. Questioning the same, he raised a dispute through Union before the 1st respondent-Labour Court in I.D.No.136 of 2005. 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 appellate authority had modified the order of removal contrary to the Regulations governing employees of the 2nd respondent Corporation and as the Regulations did not provide for imposition of punishment of appointment as mechanic 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

¹ 2007 (5) ALD 416

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 2nd respondent corporation has contended that taking a lenient view, the appellate authority has directed reinstatement of the petitioner as Mechanic 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 appellate authority is, accordingly, set aside and the matter is remanded back to the appellate authority for passing appropriate orders, in accordance with the Regulations of the 2nd 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.

ABHINAND KUMAR SHAVILI, J

18th September, 2018
cbs

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(disposed of)

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