

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.12906 of 2005

ORDER

Heard Sri G.Ravi Mohan, learned counsel appearing for the petitioner, and Sri C.Prakash Reddy, learned Standing Counsel for APSRTC appearing on behalf of the respondent-Corporation.

It is the case of the petitioner that he was appointed as Conductor in the respondent corporation in the year 1984. While so, on 5.7.2002, a check was exercised by the checking officials and the checking officials found that the petitioner had indulged in cash and ticket irregularities. 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 on him a major punishment of removal from service *vide* order dated 02.12.2002. Aggrieved thereby, he preferred an appeal before the 2nd respondent-appellate authority. The appellate authority while setting aside the order of removal, reinstated the petitioner into service as Conductor afresh, denied continuity of service, attendant benefits and back wages. Aggrieved thereby, he filed a review petition before the 1st respondent. The 1st respondent *vide* order dated

26.11.2004 confirmed the order passed by the 2nd respondent.

Aggrieved by the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contends that the appellate 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 appearing for the respondent-Corporation contends that taking a lenient view, the appellate authority has directed reinstatement of the

¹ 2007 (5) ALD 416

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 appellate authority is, accordingly, set aside and the matter is remanded back to the reviewing authority directing it to examine the records and determine the appropriate punishment to be imposed on the petitioner, 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.

Miscellaneous petitions, if any, pending shall stand closed. No costs.

JUSTICE ABHINAND KUMAR SHAVILI

5th November, 2018
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