

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 3530 of 2003

ORDER:

1. Heard Sri V. Narsimha Goud, learned Counsel for the petitioner and Sri N. Vasudeva Reddy, learned Standing counsel for the respondent-Corporation.

2. It has been contended by the petitioner that he joined in the respondent-Corporation on 23.3.1988, and while so, on the ground that he involved in a criminal case, the respondent corporation initiated disciplinary proceedings and after following the procedure and after conducting a departmental enquiry, the disciplinary authority imposed on him a major punishment of removal from service vide orders dated 18.10.1994, and aggrieved by the same, he preferred an appeal before the 2nd respondent, and the 2nd respondent took a lenient view and set aside the order of removal and directed that the petitioner be appointed as a fresh driver. Further, it has been contended by the petitioner that aggrieved by denial of back wages, continuity of service and other attendant benefits, the petitioner filed I.D.No.206 of 1999 and the Labour Court vide order dated 7.10.2002 dismissed the I.D. Challenging the same, the present writ petition is filed.

3. 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 Corporation, and as the Regulations did not provide for 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 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.”

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

¹ 2007 (5) ALD 416

appellate authority has 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.

5. This Court has 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 order passed by the appellate authority is, accordingly, set aside and the matter is remanded to the appellate authority to take appropriate decision and 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.

6. With the above direction, the writ petition is disposed of. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

15th December, 2018
Nn

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(disposed of)

15th December, 2018

Nn

