

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.21015 of 2011

ORDER

Heard Sri S.Pradeep Kumar, learned counsel for the petitioner, and Sri B.Mayur Reddy, learned Standing Counsel appearing for the respondent-Corporation.

It has been contended by the petitioner that he was appointed as Driver in the respondent-Corporation on 23.03.2005. While so, he was absent from duties owing to ill-health and personal problems. 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 04.05.2005. Aggrieved thereby, he preferred an appeal before the appellate authority and the same was rejected on 26.07.2005 and, thereafter, he filed a review petition before the reviewing authority. The reviewing authority directed the respondent-Corporation to reinstate him into service as fresh Driver *vide* order dated 19.08.2005. Aggrieved by

the denial of continuity of service, back wages and other attendant benefits, the present writ petition is filed.

3. Learned 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 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.”

¹ 2007 (5) ALD 416

4. Per contra, learned Standing Counsel for the respondent-Corporation has contended that taking a lenient view, the reviewing 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. 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 reviewing 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.

6. The writ petition is, accordingly, disposed of. No costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

9th November, 2018

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