

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.24555 of 2011

ORDER

Heard Sri Mohd.Ghousuddin, learned counsel for the petitioner and learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that he was appointed as Driver in the respondent-Corporation in the year 1996 and his services were regularized on 1.1.1998. While he was conducting the bus on 18.11.1999, he caused accident, due to which, the cyclist, who came opposite to the bus, died on the spot. This incident was construed as misconduct, the respondent-Corporation, without conducting any enquiry and without hearing the petitioner, removed him from service, *vide* proceedings dated 13.03.2001. Aggrieved thereby, the petitioner preferred an appeal before the appellate authority, and the same was rejected *vide* proceedings dated 16.05.2001. Thereafter, he filed a review petition before the reviewing authority. The reviewing authority *vide* proceedings dated 26.09.2001 modified the punishment of removal to that of reinstatement into service as Driver Grade-II afresh. Aggrieved by the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contends that the imposition of punishment of removal from service is disproportionate to the alleged misconduct; that the reviewing authority has no power to revert him to the lower post.

Learned Standing Counsel appearing for the respondent-Corporation contends that taking a lenient view, the reviewing authority had directed reinstatement of the petitioner as Driver Grade-II afresh and that can never be treated as arbitrary and illegal and the same cannot be challenged in the Court of law.

This Court, having considered the rival submissions made by the parties, is of the considered view that the writ petition can be disposed of, setting aside the impugned order passed by the reviewing authority and remanding the matter 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.

Accordingly, the writ petition is disposed of, setting aside the impugned order passed by the reviewing authority

and remanding the matter 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. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

30th October, 2018
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