

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL No.1655 of 2018

JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

The Telangana State Road Transport Corporation (TSRTC), being the successor-in-interest of the erstwhile Andhra Pradesh State Road Transport Corporation (APSRTC), and its Regional Manager, Mahabubnagar Region, Mahabubnagar District, are in appeal aggrieved by the order dated 03.10.2018 passed by a learned Judge of this Court disposing of W.P.No.20089 of 2009 by modifying the punishment imposed upon the respondent-writ petitioner.

The respondent-writ petitioner was a Driver in the service of the erstwhile APSRTC. By order dated 10.07.2007, he was visited with the punishment of removal from service on the ground that he has caused an accident due to rash and negligent driving. However, the Regional Manager, APSRTC, Mahabunagar Region, exercised revisional powers and reduced the punishment to that of reduction of pay of the respondent-writ petitioner by two increments for a period of two years with cumulative effect, *vide* order dated 22.07.2008. Aggrieved thereby, the respondent-writ petitioner came before this Court by way of W.P.No.20089 of 2009. By the order dated 03.10.2018, presently under appeal, the learned Judge took note of the contentions of both sides and observed as under:

“This Court having considered the submissions made by both the parties is of the considered view that revisional authority ought to have imposed of reduction of pay by two incremental stages for a period of two years without cumulative effect instead of with cumulative effect. Therefore, ends of justice would be met if the punishment imposed by the revisional authority is modified to that of reduction of pay by

two incremental stages for a period of two years without cumulative effect instead of with cumulative effect.

Accordingly, the Writ Petition is disposed of modifying the punishment imposed by the revisional authority to that of reduction of pay by two incremental stages for a period of two years without cumulative effect. It is made clear that the above modified punishment is without any monetary benefits. No order as to costs.”

It is no doubt open to this Court to interfere with the quantum of punishment on the doctrine of proportionality but, in the general course, it would be appropriate for this Court to remit the matter to the disciplinary authority or the revisional authority, as the case may be, to reconsider the quantum of punishment. That being said, power would also vest in this Court, in deserving cases, to substitute the punishment instead of driving the employee concerned to go through another round before the competent authority with regard to the reduction in the quantum of punishment. However, in such a case, it would be incumbent upon this Court to record the reasons as to why it has chosen to exercise this exceptional power and also the reasons for substituting the punishment with a particular lesser punishment. Reference in this regard may be made to the observations of the Supreme Court in *U.P.SRTC V. SURESH CHAND SHARMA*¹, which read as under:

“17. In view of the above, the reasoning so given by the High Court cannot be sustained in the eye of the law. More so, the High Court is under an obligation to give not only the reasons but cogent reasons while reversing the findings of fact recorded by a domestic tribunal. In case the judgment and order of the High Court is found not duly supported by reasons, the judgment itself stands vitiated. (Vide *State of Maharashtra*

¹ (2010) 6 SCC 555

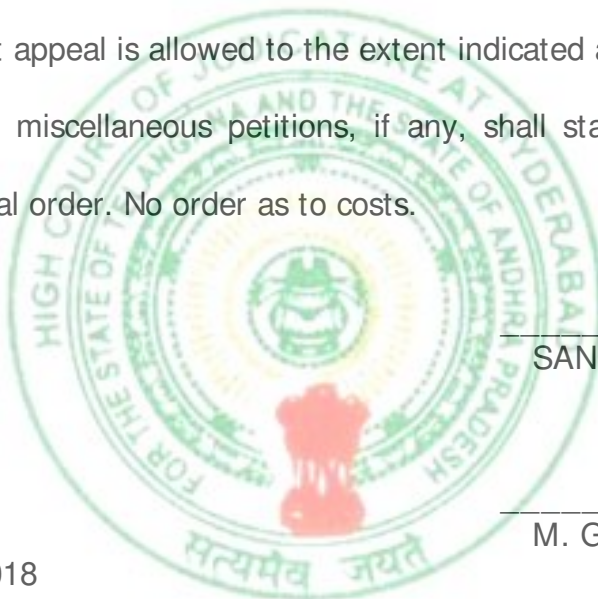
*v. Vithal Rao Pritirao Chawan*²; *State of U.P. v. Battar*³; *Raj Kishore Jha v. State of Bihar*⁴ and *State of Orissa v. Dhaniram Luhar*⁵.)”

Perusal of the order under appeal would demonstrate that the learned Judge did not undertake the required exercise. The order under appeal therefore stands vitiated in the light of the aforestated mandate of the Supreme Court and cannot be sustained.

We accordingly set aside the order under appeal and remit the matter for consideration afresh keeping in mind the aforestated edict of the Supreme Court.

The writ appeal is allowed to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR, J

M. GANGA RAO, J

Date: 13.12.2018
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² (1981) 4 SCC 129 : 1981 SCC (Cri) 807: AIR 1982 SC 1215

³ (2001) 10 SCC 607 : 2003 SCC (Cri) 639

⁴ (2003) 11 SCC 519 : 2004 SCC (Cri) 212 : AIR 2003 SC 4664

⁵ (2004) 5 SCC 568 : (2008) 2 SCC (Cri) 49 : AIR 2004 SC 1794