

High Court for the State of Telangana

The Hon'ble The Acting Chief Justice Raghvendra Singh Chauhan

and

The Hon'ble Sri Justice A.Rajasheker Reddy

W.A. No.368 of 2019

Date: 26-04-2019

Between:

APSRTC & 2 others

...Appellants

and

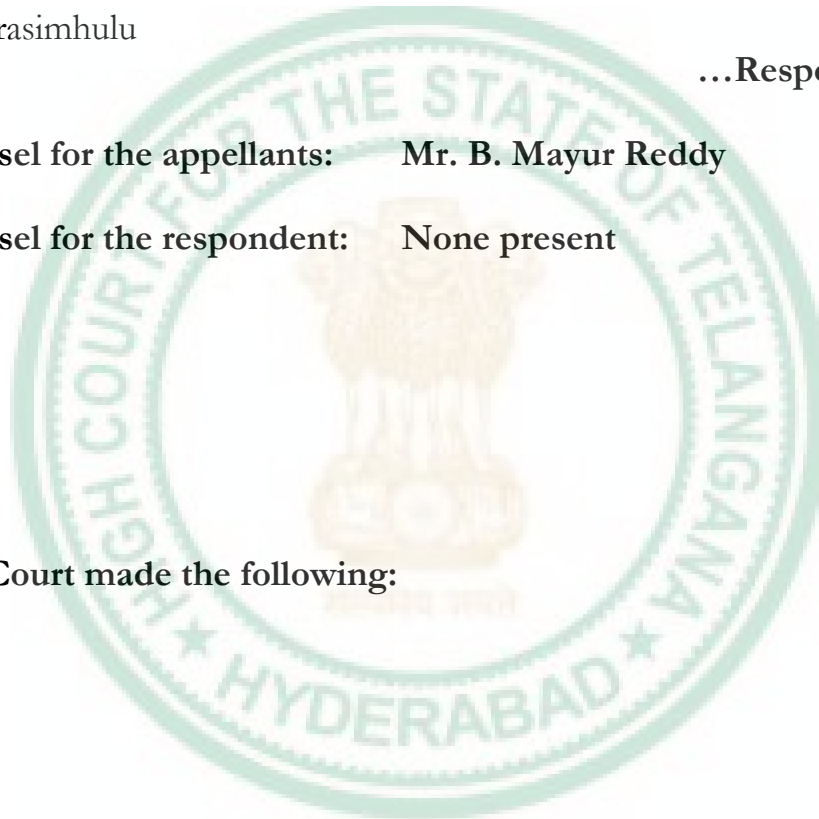
G Narasimhulu

...Respondent

Counsel for the appellants: Mr. B. Mayur Reddy

Counsel for the respondent: None present

The Court made the following:



Judgment: (per Hon'ble Sri Justice Raghvendra Singh Chauhan)

The appellants are aggrieved by the order dated 01-11-2018, passed by the learned Single Judge, in W.P.No.4263 of 2007, whereby the learned Single Judge has disposed of the said petition, filed by the respondent-workman, by modifying the punishment from “*reduction of pay by two incremental stages with cumulative effect*” to “*reduction of pay by two incremental stages without cumulative effect*”.

Briefly the facts of the case are that, the respondent-workman was employed as a driver with the former APSRTC (now known as TSRTC), the appellants. During the tenure of his service, on 24-03-2005, the respondent was served with a chargesheet wherein it was alleged that on 13-03-2005 at 1:30 p.m., he had misbehaved with an ADC. After completion of the departmental enquiry, on 21-06-2005, the enquiry officer submitted his report. According to the enquiry officer, the charges levelled against the respondent were proved. Therefore, a second show cause notice was issued to the respondent. On 23-07-2005, the respondent replied to the same. However, by the order dated 29-07-2005, the respondent was punished with

“reduction of pay by two incremental stages with cumulative effect”.

Since the respondent was aggrieved by the said order, he filed a departmental appeal. However, the said appeal was dismissed on 23-08-2005. The respondent further filed a revision. Even the revision was dismissed by order dated 15-12-2005. Therefore, the respondent filed a writ petition before this Court. As stated above, the said writ petition was disposed of, and the punishment order was modified to *“reduction of pay by two incremental stages without cumulative effect”* by the learned Single Judge. Hence, this appeal before this Court.

Mr. B. Mayur Reddy, the learned counsel for the appellants, submits that the impugned order is a non-speaking order, as the learned Single Judge has not assigned any reasons whatsoever, for reducing the major punishment to a minor one. Therefore, the impugned order deserves to be interfered with.

Heard the learned counsel for the appellants, and perused the impugned order.

In a catena of cases, the Hon'ble Supreme Court has opined that, even if wrong reasons have been stated, but the conclusion is correct, then the appellate court is justified in giving the correct reasons while upholding the decision of the lower Court.

According to the chargesheet, it is a case of single instance where the respondent-workman had misbehaved with an officer. It is not a case of repeated disciplinary action assigned to the workman. Hence, the question that arises is, whether the imposition of a major punishment for a single misconduct is legally justified or not ? Even if the enquiry officer was of the opinion that the charges were proved, a question would still arise whether the imposition of major punishment is shockingly disproportionate to the alleged misconduct or not ?

While considering the case of a workman, the court has to be sensitive to the conditions in which the workman is asked to discharge his duties. The court should equally be sensitive to the social background from which the workman comes from. Keeping these two factors in mind, it is not unusual for a driver to lose his temper during the tenure of

his service. Merely because the respondent has rudely behaved with an officer on a single instance, should not entail the imposition of a major penalty on him. As a model employer, the appellant- Corporation is required to show the sense of generosity and tolerance towards its employees. Therefore, while reprimanding the respondent for his rude behavior, the ends of justice would have been met, had a minor penalty been imposed upon him. By imposing a minor penalty, the respondent would have been informed that such misconduct would not be tolerated, and such indiscipline deserves to be punished. Simultaneously, the other co-workers would also be warned that no such indiscipline would be tolerated by the Corporation. But simultaneously, the Corporation has to remember that justice must be tampered with mercy. Too harsh a punishment would have a reactionary consequence. Therefore, considering the facts and circumstances of the case, a minor penalty should have been imposed. This precisely is the conclusion drawn by the learned Single Judge, that “*having considered the fact that a single instance of action of indiscipline has been allegedly committed by the respondent, the appellate authority should have, in fact, reduced the punishment from ‘reduction of pay by*

two incremental stages with cumulative effect to *'reduction of pay by two incremental stages without cumulative effect'*". Therefore, this Court does not find any illegality or perversity in the conclusion drawn by the learned Single Judge.

Accordingly, this appeal, being devoid of any merit, is dismissed.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(Raghvendra Singh Chauhan, ACJ)

(A.Rajasheker Reddy, J)

Dt: 26th April, 2019
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