

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.6461 OF 2019

ORDER

This writ petition is filed seeking the following relief:

“....to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the 2nd respondent herein in ordering modified punishment of fresh reinstatement of the petitioner as Driver is bad arbitrary, illegal and consequently direct the respondents to treat the petitioner reinstatement *vide* proceedings dt 08-01-2018 of 2nd respondent herein as reinstatement with all consequential service benefits such as continuity of service, attendant benefits and back wages and pass such other order or orders which this Court deems fit and proper.”

Heard Sri P.Venkateshwer Rao, learned counsel appearing for the petitioner and Sri A.Ravi Babu, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that initially, he was appointed as a Driver on contract basis on 02.01.2010 in the respondent-Corporation. Thereafter, his services were regularized with effect from 01.09.2013 and he was working as such. While so, the respondent-Corporation issued charge sheet alleging that he was in drunken condition on 24-06-2016. The disciplinary authority has construed the same as a misconduct and initiated disciplinary proceedings against the petitioner. After conducting detailed enquiry, the disciplinary authority had imposed the punishment of removal from

service *vide* proceedings dated 18.07.2017. Aggrieved by the same, he preferred an appeal and the same was rejected *vide* proceedings dated 9-8-2017. Challenging the same, the petitioner preferred review before the 2nd respondent. The 2nd respondent has considered the same, modified the punishment of removal to that of reinstatement afresh without continuity of service, back wages and other attendant benefits *vide* proceedings dated 8.1.2018. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that since the charge levelled against the petitioner was not proved, the reviewing authority had modified the punishment of removal to that of reinstatement into service afresh, which is not one of the stipulated punishments as per the Regulations of the respondent-Corporation; that similar issue fell for consideration before this Court in *K.C.Narayana Vs. Managing Director, APSRTC, Hyderabad and others*¹, wherein this Court had remanded the matter to the reviewing authority to re-consider the entire case of the petitioner and pass any speaking order as per the Regulations other than the dismissal and removal.

¹ 2007 (5) ALD 416

Learned Standing Counsel appearing for the respondent-Corporation does not dispute the said fact; and that the reviewing authority would consider and pass orders strictly in terms of the Regulations of the Corporation.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the impugned modification order of the reviewing authority dated 8.1.2018 is liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned order dated 8.1.2018 is set aside only to the extent of denying back wages, continuity of service and attendant benefits. The matter is remanded to the Reviewing Authority to consider the case of the petitioner afresh, impose any punishment other than the removal and dismissal by protecting the reinstatement of the petitioner, and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

27th March, 2019
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