

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

WRIT PETITION No.7050 of 2019

Date: 25.04.2019

Between:

Union of India and others

...Petitioners

and

K. Satyanarayana

...Respondent

Counsel for the petitioners : Smt. Pushpinder Kaur

Counsel for the respondent : Mr. K.R.K.V. Prasad

The Court made the following:



ORDER: (Per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)

The Union of India is aggrieved by the order dated 22.02.2019, passed by the Central Administrative Tribunal, Hyderabad, ("the Learned Tribunal", for short), whereby the learned Tribunal has set aside the punishment order dated 02.05.2011 passed by the Divisional Commercial Manager ("the DCM" for short), the appellant No.3, wherein the DCM had compulsorily retired the respondent, Mr. K. Satyanarayana.

Briefly, the facts of the case are that the respondent was working as a Senior Ticket Examiner in Vijayawada division. On 01.03.2009, while he was working in Train No.7488, Tirumala Express, between Visakhapatnam and Vijayawada, he broke his duty at 21:00 hours at Vijayawada. While he was proceeding to the Chief Ticket Inspector (Sleeper) Office, Vijayawada, he was intercepted by the Vigilance officials and was subjected to a check on a false premise that he had indulged in irregularity and collected excess amount from two passengers. Despite the fact that the respondent had explained that he did not indulge in any irregularity, according to the respondent, the Vigilance officials forcibly obtained a statement from him under coercion. Subsequently, the respondent was subjected to a disciplinary enquiry. On 15.05.2009, he was furnished with a charge-sheet. After completing the disciplinary enquiry, since the disciplinary authority was of the opinion that the charges had been proved, the DCM passed the punishment order of compulsory retirement dated 02.05.2011.

Aggrieved by the said punishment order dated 02.05.2011, the respondent filed an appeal before the Senior Divisional

Commercial Manager, the appellant No.2. However, by order dated 29.05.2012, the appeal was dismissed. Hence, the respondent filed an O.A, namely O.A.No.20/14/2013 before the learned Tribunal.

By order dated 22.02.2019, the learned Tribunal set aside the punishment order *inter alia* on the ground that the DCM was not the competent authority to pass the punishment order. In fact, it was the Senior DCM, who was the competent authority. Therefore, the learned Tribunal even granted liberty to the Senior DCM to deal with the disciplinary case, and to pass a suitable order, after considering all the relevant documents, and after giving an opportunity of hearing to the respondent. Hence, this petition before this Court.

Smt. Pushpinder Kaur, the learned counsel for the petitioners, submits that according to the Railway Servants (Discipline and Appeal) Rules, 1968 ("the Rules" for short), a Senior Scale Officer, i.e DCM, is authorized to impose penalties. Therefore, the punishment order was legally passed by the DCM. Hence, the learned Tribunal was not justified in granting liberty to the Senior DCM to pass the punishment order. Thus, the impugned order deserves to be set aside by this Court.

On the other hand, Mr. K.R.K.V. Prasad, the learned counsel for the respondent, pleads that according to Schedule-II attached with the Rules, only minor penalties can be imposed by the Senior Scale Officer, i.e DCM. However, in the present case, a major penalty of compulsory retirement has been imposed upon the respondent. The said penalty could be imposed only by the Senior DCM, and not by the DCM. Hence, the learned Tribunal was certainly justified in concluding that the punishment order has

been passed by an incompetent authority. Thus, the punishment order has to be set aside. Consequently, the learned Tribunal was justified in directing the reinstatement of the respondent, while giving liberty to the Senior DCM to pass necessary orders.

Secondly, once the liberty has been granted to the Senior DCM, the petitioners could not be aggrieved by the impugned order. Thus, according to the learned counsel, the present petition is highly misplaced.

Heard the learned counsel for the parties and perused the impugned order.

A bare perusal of the punishment order dated 02.05.2011 clearly reveals that it has been passed by the DCM. According to Schedule-II attached with the Rules, a DCM is permitted to pass a punishment order dealing with the minor penalties. However, the penalty of compulsory retirement is a major penalty. Therefore, obviously, the DCM does not have the power to pass a punishment order dealing with a major penalty. Thus, the learned Tribunal was justified in concluding that the punishment order had been passed by the incompetent authority. According to the learned Tribunal, the competent authority happens to be a Senior DCM. It is in these circumstances that the learned Tribunal was justified in granting the liberty to the Senior DCM to pass a necessary order, after giving an opportunity of hearing to the respondent. Since the punishment order had been passed by an incompetent authority, naturally, the learned Tribunal had no other option but to direct that the respondent should be reinstated.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned order. This Writ Petition,

being devoid of any merits, is hereby dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, ACJ)

(A. RAJASHEKER REDDY, J)

25th April, 2019
JSU



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****WRIT PETITION No.7050 of 2019****(Per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)****Date: 25.04.2019****JSU**