

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT APPEAL No.388 of 2019

Date: 22.07.2019

Between:

K. Moses.

... Appellant

And

TSRTC, Rep. by its Vice Chairman and Managing Director,
RTC Bus Bhavan, RTC X Roads,
Musheerabad, Hyderabad
and others.

... Respondents

Counsel for the Appellant : Sri Mohd. Ghouseuddin

Counsel for the Respondents : Sri N. Vasudeva Reddy,
Standing Counsel for TSRTC

The Court made the following:

JUDGMENT: (Per Hon'ble Dr. Justice Shameem Akther)

This appeal, under Clause 15 of Letter Patents Act, is filed aggrieved by the dismissal order dated 09.04.2019 passed by a learned Single Judge of this Court in Writ Petition No.2659 of 2017 wherein the appellant/writ petitioner questioned the order of his removal from service as Driver-cum-Conductor.

2. Heard the learned counsel for the appellant/writ petitioner and the learned Standing Counsel for TSRTC and perused the record.

3. The learned counsel for the appellant/writ petitioner would contend that the order under appeal is contrary to law and facts of the case and there is patent violation of the procedure. The removal of appellant/writ petitioner from service vide proceedings No.02/62(51)/2015 RNG-II, dated 27.12.2016 is illegal, arbitrary and capricious. When there is a grave irregularity, the learned Single Judge ought to have interfered with and set aside the order of removal and ultimately, prayed to allow the appeal by setting aside the impugned order dated 09.04.2019 as well as removal order dated 27.12.2016.

4. On the other hand, learned Standing Counsel for TSRTC would contend that the appellant/writ petitioner has an effective and efficacious remedy of appeal before the respondent authorities as well as a remedy under the Industrial Disputes Act, 1947. The appellant/writ petitioner instead of invoking the efficacious remedies available, erroneously invoked the jurisdiction of this Court under Article 226 of the Constitution of India. Therefore, the learned Single Judge was justified in dismissing the writ petition and ultimately prayed to sustain the impugned order.

5. In view of submissions made by both sides, the point that arises for determination is:

“Whether the removal order bearing No.02/62(51)/2015 RNG-II, dated 27.12.2016 and the impugned order dated 09.04.2019 passed in W.P.No.2659 of 2017, are liable to be set aside?”

6. **POINT**: The material placed on record as well as affidavit filed in support of the writ petition would disclose that the appellant/writ petitioner was appointed as Driver-cum-Conductor in the year 1987 and his services were regularized. On 30.09.2015, while the appellant/writ petitioner was conducting service in vehicle No.7288, a check was conducted by Mr.B.Mallesh, Controller of RNG-II Depot along with his partner Sri V.Venkatesh, E-202159, ADC of MYP-II Depot and found certain cash and ticket irregularities. Basing on the said irregularities, the Depot Manager, RNG-II Depot issued a charge sheet vide No.02/62(51)/2015-RNG-II, dated 06.10.2015. The appellant/writ petitioner submitted his explanation to the charge-sheet. Not satisfied with the explanation submitted, an enquiry was ordered. The appellant/writ petitioner refused to attend the enquiry, for, he does not have confidence on the enquiry officer. Therefore, an *ex-parte* enquiry was conducted and a report dated 06.04.2016 was submitted. Ultimately, the appellant/writ petitioner was removed from service vide proceedings No.02/62(51)/2015 RNG-II, dated 27.12.2016. Aggrieved by the said order of removal, the writ petition was filed and against the dismissal of writ petition, this writ appeal is filed.

7. The learned Single Judge while dealing with the writ petition held that no case is made out to hold that the order of removal is patently illegal and without jurisdiction and no procedural illegality is made out

to interfere with scuttling the remedy of appeal/remedy under the Industrial Disputes Act. The learned Single Judge holding so declined to entertain the writ petition and dismissed the same.

8. It is evident from the material on record that effective and efficacious remedy against the order of removal dated 27.12.2016 is available to the appellant/writ petitioner by way of appeal provided under CCA Regulations before the respondent authorities and also under the Industrial Disputes Act, 1947 before the Labour Court. The appellant/writ petitioner instead of availing the effective and efficacious remedies available, has erroneously invoked the jurisdiction of this Court under Article 226 of the Constitution of India. The questions raised in this writ appeal as well as in the writ petition can effectively be dealt with by way of filing an appeal before the respondent authorities or by raising a dispute before the Labour Court. The learned Single Judge having dealt with all the contentions raised, rightly dismissed the writ petition. There is no infirmity or irregularity in the impugned order.

9. The writ appeal is accordingly dismissed. However, it is open for the appellant/writ petitioner to work out the remedies available to him. No order as to costs.

Pending miscellaneous petitions, if any, shall also stand dismissed.

RAGHVENDRA SINGH CHAUHAN, HCJ

Dr. SHAMEEM AKTHER, J

Date: 22.07.2019

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