

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.21412 of 2015

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the proceedings dated 09.07.2010 issued by respondent No.4 and the proceedings dated 21.03.2011 issued by respondent No.3, as arbitrary, illegal, contrary to law and violative of Articles 14 and 21 of the Constitution of India and consequently set aside the same with a direction to reinstate the petitioner into service with continuity of service, back wages and attendant benefits.

2. Heard both sides.

3. It has been contended by the petitioner that he is fully eligible and qualified to be appointed as Conductor and the respondents have issued notification inviting applications for the post of Conductor during August, 2009. The petitioner had responded to the said notification, and after undergoing regular selection process, he was selected and appointed as Conductor in the month of January, 2010 on contract basis. Petitioner contended that during his initial days of conducting the bus, a surprise check was conducted on 25.01.2010, to be precise, on the fourth day of his assuming duty, while he was conducting the bus from Hanmakonda to Mangapet. It was noticed by the checking officials that the petitioner had indulged in cash and ticket irregularities. The disciplinary authority had initiated disciplinary proceedings and after conducting departmental inquiry, the petitioner was removed from service on 09.07.2010.

Thereafter, the petitioner has unsuccessfully preferred appeal, which was rejected vide proceedings dated 21.03.2011. Counsel for petitioner contended that since the petitioner was newly entrusted with the duty of conducting the bus, he had erroneously issued one ticket of Rs.30/- denomination and the checking officials found faulted with the same. Counsel for petitioner contended that the petitioner was entrusted with the duty of conducting the bus without giving basic training and in his initial phase of conducting the bus, the said lapse occurred, which was not intentional but a mistake. However, the disciplinary authority had imposed the shockingly disproportionate punishment of removal from service. Therefore, counsel for petitioner contend that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner at least for reinstatement afresh without any benefits for the past service.

4. The Standing Counsel appearing for respondents has contended that the disciplinary authority has imposed the punishment of removal for the proven misconduct in the inquiry and the petitioner has not preferred revision and straightaway filed the present writ petition. It is stated that if the petitioner prefers revision, the revisional authority passes appropriate orders.

5. This Court, having considered the rival submissions made by the parties, is of the considered view that this writ petition can be disposed of directing the petitioner to prefer revision before the revisional authority within two weeks from the date of receipt of a copy of this order, and

upon such revision being filed, the revisional authority shall entertain the same without raising the issue of limitation and consider the case of the petitioner afresh by duly taking into account the fact that the punishment of removal imposed on the petitioner is shockingly disproportionate to the charges levelled, as the alleged incident had occurred on the fourth day from the date of initial appointment of petitioner. Therefore, a lenient view can be taken by the revisional authority and any other appropriate punishment commensurate with the charges, can be imposed on the petitioner.

6. With the above directions, the writ petition is disposed of.
No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

15th November, 2019

ajr