

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND TWENTY TWO**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA
AND**

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT APPEAL NO: 241 OF 2022

Writ Appeal under clause 15 of the Letters Patent Preferred Against the Order Dated 25/01/2022, Passed in W.P. No. 15709 of 2004 on the file of the High Court.

Between:

1. The Depot Manager, Telanagana State Road Transport Corporation, (previously APSRTC) Mahabubnagar Bus Depot, Mahabubnagar.
2. The Regional Manager, Telanagana State Road Transport Corporation, (previously APSRTC) Mahabubnagar Region at Mahabubnagar.
3. The Depot Manager, Telanagana State Road Transport Corporation, (previously APSRTC) Gadwal Bus Depot Mahabubnagar District.

...APPELLANTS

AND

A. G. GOUD, S/o Narayan Goud, Conductor E-280793, APSRTC (Now TSRTC),
Gadwal Bus Depot, Mahabubnagar District.

...RESPONDENT

I.A.NO:1 OF 2022

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the order dated 25/01/2022 passed by the Learned Single Judge in W.P.No.15709 of 2004 in the interest of justice.

Counsel for the Appellants : SRI.B.MAYUR REDDY (SC FOR TSRTC)

Counsel for the Respondents : SRI.P.VENKATESWARA RAO

The Court made the following ORDER

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT APPEAL No.241 of 2022

JUDGMENT: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

The present writ appeal is arising out of the order dated 25.01.2022 passed by the learned Single Judge in W.P.No.15709 of 2004.

The undisputed facts of the case reveal that the respondent/employee, who was serving on the post of Conductor, was charge-sheeted for unauthorised absence. He did submit a reply to the charge sheet on 01.11.1996 and thereafter the entire enquiry was concluded approximately within 30 days and an order of removal was passed on 04.01.1997. The appeal preferred in the matter was rejected on 31.03.1997 and thereafter a review petition was preferred in the matter. The reviewing authority has modified the removal order by directing reinstatement of the respondent/employee but deferring future increments for a period of two years which shall have effect for postponing of future increments and also directing that the period of absence shall be treated as not on duty for leave, gratuity, provident fund and other monetary benefits.

The respondent/employee before the learned Single Judge as well as before the reviewing authority came up with a case that he was unwell and in those circumstances, he was not able to submit an application in time and also prayed for quashment of the punishment awarded in the matter.

The learned Single Judge, as the charge was relating to unauthorised absence of 26 days and 43 days, instead of disposing of the matter on the ground of alternative remedy i.e., remedy of approaching Industrial Tribunal, has interfered with the quantum of punishment.

Paragraph Nos.5 to 8 of the order passed by the learned Single Judge are reproduced as under:-

"5. Having regard to the rival contentions and the material on record, this Court finds that the first issue is whether a writ petition is maintainable when alternative remedy of filing of ID before the Labour Court is available. Admittedly, the petitioner has not approached the Labour Court for the relief, but has come straight away to the High Court. Filing of ID before the Labour Court is not a statutory remedy available to the petitioner and therefore, it cannot be said that the petitioner ought to have approached the Labour Court and not the High Court in appeal. Therefore, this contention of the respondents is rejected.

6. As regards the long delay in approaching this Court against the punishment and the reliance of the learned counsel for the respondents on the decision of the Hon'ble A.P. High Court in the case of **P.V.Narayana and others** (2013(4) ALD 386), this Court finds that it is a case where the appeal was filed in the

year 2007 after a lapse of 15 years and the revision was also dismissed. In the present case, this Court finds that the petitioner had filed appeal and review petition within time before the authorities and it is before this Court that the petitioner has filed the present petition with a delay of nearly 7 years. Therefore, the decision of the Hon'ble A.P. High Court in the case of **P.V.Narayana and others** (1 supra) is not applicable to the case on hand. However, this Writ Petition was admitted and is pending for long and at this stage it is not proper to dismiss this Writ Petition only on the ground of delay. Therefore, this contention of the respondents is also rejected.

7. As far as the proportionality of punishment for the charges of unauthorised absence of 26 days and 43 days is concerned, this Court finds that the reviewing authority has accepted the reasonable cause explained by the petitioner for remaining absent during the relevant period. It was convinced that the petitioner was sick and therefore he could not attend to the duties. Having held so, the authority has modified the punishment of removal from service to deferment of his annual increment which falls next due for a period of 2 years with cumulative effect. This Court finds that the punishment imposed by the reviewing authority is disproportionate to the charges levelled and proved against the petitioner. In such circumstances, the proper course of action would be to remand the issue to the file of the respondents to reconsider the quantum of punishment. However, due to lapse of nearly 18 years, instead of remanding the case, this Court deems it fit and proper to modify the punishment to stoppage of one annual increment for a period of 2 years without cumulative effect.

8. The Writ Petition is accordingly allowed in part. No order as to costs."

In the considered opinion of this Court, the punishment awarded at the first instance i.e., removal was certainly

shockingly disproportionate to the misconduct of the respondent/employee. The respondent/employee was unwell and the reviewing authority has also accepted the same and has reduced the quantum of punishment from removal to that of stoppage of two increments with cumulative effect. The learned Single Judge has again arrived at a conclusion that the punishment awarded even by the reviewing authority was shockingly disproportionate. The employee was unwell and the illness of the employee was also taken into account by the reviewing authority. The learned Single Judge, as the petition was of the year 2004 and the matter was about twenty years old, has rightly interfered with the quantum of punishment and this Court, in the peculiar facts and circumstances of the case, does not find any reason to interfere with the order passed by the learned Single Judge.

Resultantly, the writ appeal is dismissed.

Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

SD/-M.VIJAYA BHASKAR
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. One CC to SRI.B.MAYUR REDDY (SC FOR TSRTC) [OPUC]
2. One CC to SRI.P.VENKATESWARA RAO, Advocate [OPUC]
3. Two CD Copies
4. One spare copy

S.A
SW

V. J.

HIGH COURT

DATED:07/04/2022

JUDGMENT

WA.No.241 of 2022



DISMISSING THE W.A
WITHOUT COSTS.

⑤ VLW
4/7/22