

HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION No.6066 of 2004

ORDER:

The above writ petition is filed challenging the order passed by the 2nd respondent whereby the petitioner preferred an appeal against the orders of deleting her name from the approved list/selected list.

2. The name of the petitioner was deleted from the approved list/selected list of conductors issued by the Deputy Manager, Tekkali *vide* order dated 27.07.2000. The respondent officers alleged that there were some cash and ticket irregularities. An amount of Rs.62.50/- was found excess and two tickets of Rs.9/- denomination were issued out of seriatim. Petitioner submitted her explanation and it was not satisfactory. The name of the petitioner was removed from the approved/selected list. Aggrieved by the same, petitioner filed an appeal before the 2nd respondent challenging the illogical punishment.

2. Attention is drawn to the findings of the appellate authority wherein the appellate authority has categorically stated that the past record of the petitioner is relevantly satisfactory and that lenient view is being taken. It is also clear

that issuance of two tickets under Rs.9/- denomination un-serially would not have caused any financial loss to the respondent-Corporation or illegal financial gain to the petitioner. Considering all these, the appellate authority, as a measure of punishment, ordered that the petitioner may be engaged afresh. Aggrieved by the same, the above writ petition is filed.

3. The respondents filed the detailed counter affidavit and learned counsel for the respondents vehemently argued that the lenient view was taken only under the discretionary powers of the appellate authority and as such there was no reason for interfering with the order passed by the Divisional authority.

4. Learned counsel for the petitioner relies upon the judgement of this Court in **K.C.Narayana V. Managing Director**¹, wherein this Court had an occasion to deal with the situation of similarly placed employee whose appointment was treated afresh by the appellate authority. The facts of the above cited judgment are similar to the present case. The appellate authority while considering the case of eloquent employee has to scrupulously follow the punishments as enumerated therein.

¹ 2007 LawSuit (AP) 258

The regulation therein would not entitle the appellate authority to use its discretionary power and impose any punishment which is other than prescribed under the said regulation.

5. Thus, following the said judgment, this Court held that the order passed by the 2nd respondent dated 30.11.2000 is liable to be set aside to the extent of the punishment imposed on the petitioner that shall be engaged afresh.

6. Accordingly, the Writ Petition is allowed by setting aside the order of the 2nd respondent dated 30.11.2000 and also the order dated 07.02.2002, passed by the Regional Manager, Srikakulam. As a consequence of allowing this writ petition, the petitioner shall be entitled to draw all the emoluments on par with the employees who have recruited along with the petitioner and who are drawing as on date. This order shall apply prospectively. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE HARINATH.N

Date: 07.11.2023
KAS

257

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