

Krishna Reddy Vs. Management of K.S.R.T.C. and ors.

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SooperKanoon Citation : sooperkanoon.com/379133

Court : Karnataka

Decided On : Sep-08-1992

Reported in : ILR1992KAR3265; (1993)ILLJ1048Kant

Judge : K.A. Swami, A.C.J and ;A.B. Murgod, J.

Acts : K.S.R.T.C. Servants (Conduct and Discipline) Regulations, 1971 - Regulation 35(1)

Appeal No. : W.A. No. 1713/1992

Appellant : Krishna Reddy

Respondent : Management of K.S.R.T.C. and ors.

Advocate for Def. : K. Lakshminarayana Rao, Adv.

Advocate for Pet/Ap. : D. Venugopal, Adv.

Judgement :

K.A. Swami, A.C.J.

1. At the stage of admission the respondents have put in appearance through a counsel. Therefore, the appeal is admitted and it is heard for final disposal as it lies in a very narrow compass.

2. The appeal is preferred against the order dated May 29, 1991 passed in Writ Petition No. 10860/1991. In the Writ Petition, the petitioner challenged the order dated June 6, 1990 passed by the second respondent in No. KST : RM : BRR : DFL : 107 : 90-91. The second respondent suo motu exercised his power under Regulation 35(1)(ii) of the K.S.R.T.C. Servants (Conduct and Discipline) Regulations, 1971 (hereinafter referred to as 'Regulations') and set aside the order dated March 15, 1990 passed by the Disciplinary Authority against the appellant in No. KST : KLR : EFL : 1321 : 89 : 1208 and remitted the case to the disciplinary authority with a direction to conduct a detailed enquiry as contemplated under the Regulations.

3. The learned single Judge has rejected the writ petition on the ground that the order passed by the second respondent is perfectly within his jurisdiction.

4. It is contended on behalf of the appellant that no doubt the appellate authority is entitled to exercise its power under Regulation 35(1)(ii) of the Regulations suo motu, but, it is not entitled to set aside the order of the disciplinary authority without affording an opportunity to the delinquent official. In support of this contention he has placed reliance on a decision of this Court in Rasheed v. The Managing Director and others. W.P. 16952 of 1984, Dated October 8, 1985.

5. In this case it is not in dispute that the appellate authority before passing the order dated June 6, 1990 produced as Annexure - D in the writ petition did not issue any notice to the appellant nor did it afford any opportunity to show cause as to why the order of the disciplinary authority should not be set aside and the detailed enquiry as per the Regulations should not be ordered to be held. The disciplinary authority found the appellant guilty of the misconduct levelled against him and imposed a punishment of with-holding one ensuing annual increment for a period of three years without cumulative effect. There was no detailed enquiry held though the charge of misconduct were framed against the appellant.

6. We are of the view that no doubt the Appellate Authority as per the provisions contained in Regulations 35(1)(ii) of the Regulations is entitled to suo motu exercise its authority within the period specified therein but before exercising the power under Regulation 35(1)(ii) of the Regulations suo motu and setting aside the

order of the disciplinary authority it is required to issue a notice to the delinquent official and afford him an opportunity to show cause as to why the order of the disciplinary authority should not be set aside and a denovo enquiry should not be ordered to be held.

7. It is contended on behalf of the K.S.R.T.C. that Regulation 35 does not require any such notice to be given to the appellant before passing an order under Regulation 35(1)(ii) of the Regulations.

8. It is true that there is no specific provision in Regulation 35(1)(ii) of the Regulations but the principles of natural justice are attracted. Therefore, before passing an adverse order the party affected should be afforded an opportunity to put forth his say. In the instant case by setting aside the order of the disciplinary authority the delinquent was subjected to the second de novo enquiry. Therefore, it was necessary for the Appellate Authority to afford an opportunity to the appellant before passing an order setting aside the order of disciplinary authority and directing a detailed enquiry. We are in agreement with the view taken by Bopanna, J. in W.P. No. 16952/1984 referred to above.

9. For the reasons stated above, the writ appeal is allowed. The order dated May 29, 1991 passed in W.P. 10860/1991 is set aside. The writ petition is allowed in part. The order dated June 6, 1990 passed by the Regional Manager, K.S.R.T.C., B.R.R. Bangalore (Appellate Authority) in No. KST : RM : BRR : DEL : 107 : 90-91 is quashed. The matter now stands remitted to the Appellate Authority with a direction to consider the same in accordance with law and in the light of the observations made in this order.