

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

* * * *

WRIT PETITION No.6538 OF 2005

—

—

Between:

The Depot Manager, APSRTC,
Pargi Depot, R.R. District.

.. Petitioner

And

Sri G. Sailoo and another.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 13-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE SANJAY KUMAR

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Lordship wish to
see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.6538 of 2005

ORDER:

The Depot Manager, Andhra Pradesh State Road Transport
Corporation (APSRTC), Pargi Depot, Ranga Reddy District, filed this

writ petition calling in question the Award dated 21.09.2004 passed by the Labour Court-I, Hyderabad, in I.D.No.115 of 2002. By the said Award, the Labour Court directed reinstatement of the first respondent-workman in service with full back wages and continuity of service but without attendant benefits.

By order dated 28.03.2005, this Court granted interim suspension of the impugned Award subject to compliance with Section 17-B of the Industrial Disputes Act, 1947 (for short, 'the Act of 1947'). The said order was subsequently made absolute on 16.07.2007 subject to the petitioner-APSRTC depositing 50% of the amount awarded by the Labour Court within a timeframe. The first respondent-workman was given liberty to withdraw the same without furnishing security.

Sri N. Praveen Reddy, learned counsel representing Sri N. Vasudeva Reddy, learned Standing Counsel for the TSRTC, the successor-in-interest of the erstwhile APSRTC in the State of Telangana, informed this Court that notwithstanding the initial suspension order, the first respondent-workman was reinstated in service and has also retired upon attaining the age of superannuation.

The first respondent-workman was removed from service by the erstwhile APSRTC on 06.03.1996 on the ground of unauthorized absence from 21.04.1995 to 09.05.1995. Aggrieved thereby, he filed W.P.No.21662 of 1997 before this Court and by order dated 02.02.1998, this Court set aside the order of removal from service passed against him but permitted the APSRTC to take further action in the matter in accordance with law after furnishing him a copy of the enquiry report. Thereupon, the APSRTC furnished a copy of the enquiry report to the first respondent-workman and issued show-cause notice dated 30.09.2000 proposing to remove him from service again. After considering his explanation dated 15.12.2000, he was again removed from service under proceedings dated 29.01.2001. This removal was subjected to appeal before the appellate authority who

rejected it on 15.02.2002. Aggrieved thereby, the first respondent-workman invoked the jurisdiction of the Labour Court under Section 2-A(2) of the Act of 1947. The Labour Court, upon due consideration of the facts before it, opined that the APSRTC failed to give sufficient opportunity to the workman and thereby violated the principles of natural justice. Upon perusing the record, the Labour Court also found that the alleged absenteeism of the workman was not duly established. In consequence, the Labour Court concluded that the APSRTC failed to prove the alleged unauthorized absence of the workman and accordingly set aside his removal from service effected under the proceedings dated 29.01.2001, which was confirmed thereafter in appeal.

Having heard the learned counsel for the parties, this Court finds no reason to disagree with the findings arrived at by the Labour Court, upon consideration of the factual aspects of the matter. It is however noticed that the Labour Court awarded back wages to the first respondent-workman without any discussion as to whether he was entitled thereto in terms of the break period, from the date of removal from service up to the date of the Award, being in excess of three years. There was not even an assertion before the Labour Court by the first respondent-workman that he was unemployed during that period, warranting that such relief be granted to him. Admittedly, the first respondent-workman did not render any service to the organization upon his removal in the year 2001. However, his removal from service was found to be unjustified and this Court finds no reason to interfere with the said finding. The first respondent-workman would be entitled to some compensation but no case was made out for awarding full back wages.

Keeping in mind the circumstances of the case and the fact that the first respondent-workman has already retired from service upon being reinstated, the Award under challenge is confirmed in all respects except to the extent of limiting the entitlement of the first

respondent-workman to 50% of the back wages. In the event the said amount has not been paid and withdrawn pursuant to the interim order passed by this Court, it shall be open to the first respondent-workman to initiate steps for recovery thereof.

The writ petition is accordingly allowed in part to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

13th August, 2015
IBL