

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 25263 of 2000

ORDER:

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Heard learned counsel for the petitioner, learned Government Pleader for Labour and Sri C.Lakshmi Narayana Reddy, learned counsel for the respondents and perused the record.

Assailing the order, dated 31.12.1999, passed in I.D.No.128 of 1994 by the Presiding Officer, Labour Court-III, Hyderabad, wherein and whereunder the workman was reinstated into service with 25% of back wages and continuity of service from the date of filing the petition i.e. 31.05.1994, the Andhra Pradesh State Road Corporation (for short "the Corporation") filed the present writ petition.

For the sake of convenience, the parties will hereinafter be referred to as arrayed in I.D.

The petitioner was working as a conductor of the Respondent Corporation. The Depot Manager, Yadagirigutta Depot, invoked Regulation No. 39 (3) (a) of A.P.S.R.T.C. Employees (Leave) Regulations, 1966 and declared the services of the petitioner as deemed resignation in the service of the Corporation with effect from 15.08.1981. It is stated that the petitioner in his claim-petition stated that the Corporation neither gave an opportunity to him to contest the matter nor issued any charge sheet before passing the impugned order. The petitioner is said to have been submitted a medical certificate to the Depot Manager along with the appeal which was considered by the Depot Manager, Yadagirigutta in the light of Circular No.PD/92/1977-78 D/1 17B-1977 issued by the Managing Director wherein the Depot Managers are directed not to remove from service of any employee under Regulation 39 (3) (a) of A.P.S.R.T.C. Employees (Leave) Regulations, 1966. Hence, the petitioner was directed to report before the Divisional Manager, Mahaboobnagar for posting orders. The Divisional Manager posted the petitioner to Shadnagar depot, but due to serious illness the petitioner could not report to duty within the stipulated

time and intimation to that effect was sent on 27.07.1982. The petitioner is said to have sent periodical medical certificates to the first respondent therein by registered post which was returned as refused. After recovery, the petitioner reported to duty along with the medical fitness certificate, but he was not allowed to join the duty. The Divisional Manager, Mahaboobnagar Depot, who is an appellate authority, rejected the claim of the petitioner. Thereafter, the petitioner preferred a review before the Regional Manager, Hyderabad against the said order, but the same is not disposed of. Challenging the action of the respondents an I.D. was filed before the Labour Court. In the said I.D. no oral evidence was adduced either by the petitioner or by the respondents, but five documents came to be marked on behalf of the respondents. Having regard to the arguments advanced and perusing the record placed before the Court, the Industrial Tribunal-cum-Labour Court-III, Hyderabad, directed the Corporation to reinstate the petitioner into service with 25% of back wages and continuity of service from the date of filing of claim-petition i.e. 31.05.1994. Challenging the said order the present writ petition is filed by the Corporation.

Pending writ petition, the petitioner/workman died on 13.12.2000 and hence the legal representatives of the workman, who are the wife and children were brought on record vide order dated 23.09.2003 passed in W.P.M.P.No.24119 of 2003.

A perusal of the material on record would show that no domestic enquiry was conducted against the petitioner for his absence since the Depot Manager invoked Regulation 39 (3) (a) of the A.P.S.R.T.C. Employees (Leave) Regulation, 1966 and deemed to have ceased the services of the petitioner in the Corporation from the date of such absence. The record discloses that pursuant to the order referred to above, the petitioner made a representation before the Depot Manager, who considered the same and ordered reinstatement of the petitioner with a direction to the petitioner to report before the Divisional Manager, Mahaboobnagar. Though the Divisional Manager, Mahaboobnagar, posted the petitioner to Shadnagar Depot, but the petitioner could not join duty due to sickness. He sent medical certificates from time to time by registered post acknowledgment duly intimating the authority the reason as to why he could not join to duty. The said fact of sending medical certificates is not disputed by the respondents. When the petitioner went to join duty after

recovery from the illness but he was denied the entry. The appeal which was filed by the petitioner questioning the order refusing to permit him to join duty was rejected. Though the conduct of the petitioner was found to be at fault by the Labour court, but however accepted the medical certificates submitted by the petitioner for condoning his absence.

It is pertinent to note that though the petitioner received major and minor punishments, the Depot Manager, Yadagirigutta, reinstated him into service with a direction to report before the Divisional Manager, Mahaboobnagar, who in turn posted the petitioner to Shadnagar depot, but due to sickness he could not join the duty. The record further shows that no orders are passed in the review filed by the petitioner.

Refusal to permit the petitioner to join duty is nothing but a retrenchment. In the absence of any regular enquiry being conducted, the Divisional Manager, Mahaboobnagar Depot ought not to have refused the petitioner from joining the duty. It is a clear case where the principles of natural justice are violated as the petitioner was denied permission to join duty without giving any opportunity and also reason as to why they are refusing to allow him to duty. Having regard to the circumstances stated above, the Labour Court ordered reinstatement of the petitioner with 25% of back wages with continuity of service from the date of filing of claim-petition.

While ordering the L.R. petition filed by the legal representatives of the deceased workman to implead themselves and contest the matter, this Court, by its order dated 23.09.2003 vacated the interim order, dated 20.12.2000, and directed the Corporation to deposit 25% of back wages before the Labour Court-III, Hyderabad, within four (04) weeks. Learned Counsel for the Corporation submits that the said order has been complied with.

Taking into consideration the totality of the circumstances referred to above and since 25% of the back wages as ordered by the Labour Court is already deposited by the Corporation, this Court is of the view that there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ

Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

29.10.2015

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