

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 25287 of 2000

ORDER:

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The present writ petition is filed aggrieved by an order dated 17.07.2000 passed in I.D.No.111 of 1996 on the file of the Industrial Tribunal-cum-Labour Court, Godavarikhani, wherein and whereunder the Tribunal ordered punishment of removal of the petitioner from service.

The facts in issue are as under:

The petitioner herein joined as cleaner on 28.07.1975 and later promoted as driver on 13.03.1980. He was transferred to Asifabad and his muster was closed in Mancheria Depot on 27.06.1985. It is the case of the petitioner that he was attacked with severe Hemi-paresis on 01.07.1985 and he was bed ridden. After recovery from the said ailment, the petitioner is said to have reported to duty on 29.05.1995, but he was not allowed to join. On 04.09.1995 three charges came to be framed against the petitioner. After submitting explanation to the charge sheet, a domestic enquiry was conducted and by an order dated 22.05.1996 the petitioner was ordered to be removed from service. Challenging the same, the petitioner filed I.D.No.111 of 1996 before the Industrial Tribunal-cum-Labour Court. In the said I.D. no oral evidence was adduced either by the petitioner or on behalf of the respondent, but 18 documents came to be marked on behalf of the respondents. After considering the documentary evidence produced, the Industrial Tribunal-cum-Labour Court confirmed the order of removal from service passed by the authorities. Aggrieved by the same, the present writ petition is filed.

Heard learned counsel for the petitioner, learned Standing Counsel for the respondents and perused the record.

Learned counsel for the petitioner mainly submits that though the petitioner was un-authorisedly absent from service for nearly 10 years, no steps were taken by the Department during his absence and only when he came to join the duty, the proceedings were initiated against him. In view of the

above, it is submitted that the petitioner is entitled for the benefits. In support of her argument, the counsel relied upon the judgments of this Court in ***Depot Manager, A.P.S.R.T.C., Madhira Bus Depot, Khammam District and another*** and ***Prameela and others v. The A.P.S.R.T.C. rep. by its Managing Director and others***.

Per contra, learned Standing Counsel for the respondents submits that no reasonable explanation is forthcoming as to why the writ petitioner abstained from duty for nearly 10 years. If really, he was bed ridden for nearly 10 years, his family members or any of his friends should have informed about his sickness and the petitioner would have atleast requested his family members to inform about the same to the authorities. He submits that as the petitioner was un-authorisedly absent for nearly ten years, his request cannot be considered. He placed reliance on the judgment of the Apex Court in ***L & T Komatsu Limited v. N.Udaya Kumar***.

Two judgments relied upon by the learned counsel for the petitioner refers to a case where the R.T.C. drivers were un-authorisedly absent to duty. It is to be noted that in K.A.K.Babu case (1 supra) the writ petitioner therein was absent only for few days and he is said to have sent a medical certificate to the authorities showing his sickness. In the said case, the petitioner therein was absent to duty from 03.08.1991 to 29.08.1991 and subsequently from 02.11.1991 to 12.11.1991. Having regard to the circumstances stated above, the Court set aside the impugned award to the extent of holding that the petitioner is not entitled to continuity of service and full back wages and also held that the petitioner shall be reinstated into service with continuity of service, but in the circumstances with half of the back-wages and all other attendant benefits. Learned Standing Counsel for the respondents stated that the R.T.C. has filed a writ appeal against the said order and a Division Bench of this Court while admitting the appeal granted stay of the order.

In another case, which the learned counsel for the petitioner relied upon was the case of ***Prameela and others (2 supra)***, wherein the workman was un-authorisedly absent for 134 days. In the departmental enquiry, the authorities imposed punishment of removal from service. In the appeal, the appellate authority rejected the appeal. It was a case where pending the

proceedings, the workman died and his legal heirs were pursuing the matter. Having regard to the circumstances of the case and since the authorities did not properly assess the quantum of guilt while awarding appropriate punishment, the Court felt that stoppage of two increments would meet the ends of justice.

In the instant case, the facts are totally different. The workman did not attend to his duties after he was transferred to Asifabad Depot from 01.07.1985 to 29.05.1995 i.e. for nearly ten years. After ten years he came forward with a plea of ailment. If really the petitioner was bedridden for such a long time, he should have examined the doctor who treated him. In fact, no oral or documentary evidence was adduced by the writ petitioner. No reasons are forthcoming as to why the petitioner failed to adduce any evidence in support of his plea. Further, the petitioner did not take any steps to intimate about his ailment to the authorities during his absence. If the petitioner was bedridden for such a long time, he should have informed about his sickness to the authorities either through his family members or atleast by way of a letter through post. In the absence of the same, the punishment of removal from service awarded by the authorities which was confirmed by the Industrial Tribunal-cum-Labour Court, warrants no interference.

Accordingly, the writ petition is dismissed. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

30.07.2015

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