

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Writ Petition No.23529 of 2000

Order:

This writ petition is filed by APSRTC aggrieved by the order dated 04.09.1999 in I.D.No.381 of 1994. The respondent who was the driver in petitioner's Corporation filed the said ID for the reliefs of reinstatement with back wages and consequential benefits.

2) The facts are that respondent, who was driver in Hakimpet Depot, was issued charge sheet on 04.08.1993 for his absence to duty and ultimately he was removed from service on 07.06.1994. Hence, the respondent filed ID No.381 of 1994 seeking reinstatement with back wages and consequential benefits. After due enquiry the learned Presiding Officer of the Labour Court observed that the respondent admitted his absence for the duties as mentioned in the charges 1 to 3, but sought to defend his case that his absence was beyond his control and he was unable to submit his sick report and found that enquiry conducted against him was not vitiated and finally upheld the enquiry order. Having thus found that the charges were established against him, learned Presiding Officer however observed the punishment of removal from service is harsh and severe and hence a lenient view can be taken. Accordingly, the learned Presiding Officer in his order directed the Corporation to reinstate the respondent herein into service with continuity of service and further held that respondent herein was entitled with 25% back wages from the date of filing ID till he reinstated into service but without attendant benefits.

Hence, the Writ Petition by Corporation.

3) Heard Sri N.Vasudeva Reddy, learned Standing Counsel for petitioner—Corporation. Though notice was served, there is no representation for respondent.

4) The main thrust in the argument of learned counsel for petitioner is that the Presiding Officer having found that respondent was unauthorisedly absent from duty and charges levelled against him

were amply established in the enquiry, ought not to have shown leniency against him and should have upheld his dismissal. He alternatively argued that even assuming that the dismissal from service is a harsh punishment, the Presiding Officer while ordering reinstatement into service ought not to have directed the Corporation to pay 25% of back wages from the date of filing ID till his reinstatement. He thus prayed to allow the writ petition.

5) During the course of arguments, on the enquiry of this Court, Sri N.Vasudeva Reddy, learned standing counsel for petitioner—Corporation submitted that after passing of the award on 04.09.1999 the respondent was reinstated into service 27.04.2000 and he continued in service. So, it is clear that the Corporation has partly implemented the award passed by the labour Court and therefore, the award to the extent need not be disturbed. Now, the other part of his argument is concerned, in view of the finding of the Labour Court that respondent is unauthorisedly absent for a long period and that the charges levelled against him are also established, directing the Corporation to pay 25% of back wages is considered to be windfall to him in spite of proving charges. Therefore, it is apt to reduce payment of back wages from 25% to 10%.

6) In the result, this writ petition is partly allowed and while upholding the award passed by the labour Court in I.D.No.381 of 1994 the direction to the Corporation to pay 25% of back wages from the date of filing ID to the date of reinstatement is modified to the effect that the Corporation shall pay 10% of back wages from the date of filing of ID till the date of reinstatement of the respondent. This writ petition is allowed to that extent only. No costs.

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

U.DURGA PRASAD RAO, J

Date: 05.11.2015

Murthy