

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

* * * *

WRIT PETITION No.8507 OF 2005

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Between:

John Wesely

.. Petitioner

And

The Hon'ble Labour Court-II,
Hyderabad, Rep. by its Presiding Officer and another

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 13-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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|---|--------|
| 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.8507 of 2005

ORDER:

The petitioner, a Conductor in the service of the Andhra

Pradesh State Road Transport Corporation (APSRTC), filed I.D.No.166 of 2001 before the Labour Court-II, Hyderabad, under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short 'the Act of 1947'), assailing his removal from service under proceedings dated 17.11.1994. By Award dated 10.02.2004 passed therein, the Labour Court directed reinstatement of the petitioner in service without back wages and notional increments but with continuity of service. Aggrieved by the denial of attendant benefits, back wages and notional increments, the petitioner is before this Court.

Heard Sri G. Ravi Mohan, learned counsel for the petitioner, and

Sri 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.

Perusal of the Award reflects that the Labour Court found that the charge of cash and ticket irregularities leveled against the petitioner was not established and that the Enquiry Officer recorded perverse findings against him. The only charge found proved was that the petitioner failed to follow the rule of 'Issue and Start'. The Labour Court held that imposing the capital punishment of removal from service for this simple violation was shockingly disproportionate and accordingly granted relief. However, the Labour Court took note of the fact that the order of removal from service was issued on 17.11.1994 and having filed an appeal against the same on 02.12.1994, the petitioner suffered its dismissal on 06.04.1996. He however did nothing for five long years thereafter and then filed a review petition before the Regional Manager of the APSRTC. The said review was dismissed on 25.06.1999 but he invoked the jurisdiction of Labour Court only two years thereafter by filing the subject I.D. Taking note of the delay on the part of the petitioner in pursuing his remedies, the Labour Court held him disentitled to back wages, observing that such denial would be sufficient punishment for his misconduct in not

observing the rule of 'Issue and Start'. The Labour Court further observed that the petitioner would be entitled to reinstatement with continuity of service but without notional increments.

Though the petitioner seeks restoration of attendant benefits, back wages and notional increments by way of this writ petition, this Court is of the opinion that denial of back wages in toto was justified given the fact that the petitioner failed to pursue his legal remedies with reasonable dispatch. Having slept over the matter on his own accord, the petitioner cannot seek to be compensated for the said period by way of back wages. He is also not entitled to any other monetary benefits during such period as he did not render any service to the organization. However, denial of notional increments to the petitioner, notwithstanding the finding that he was removed from service without the charge of cash and ticket irregularities being made out, is unduly harsh.

The impugned Award is therefore modified only to the extent of allowing the petitioner notional increments from the date of dismissal of his review petition by the Regional Manager of the erstwhile APSRTC on 25.06.1999. He would not be entitled to any monetary benefits pursuant to the same till his reinstatement and release of the first increment thereafter. Subject to this modification, the Award passed by the Labour Court is confirmed in all other respects.

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
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