

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.33695 of 2011

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue writ of Mandamus of Certiorari to declare the award made in ID.No.15 of 2009 on the file of Industrial Tribunal cum Labour Court, Anantapur as illegal, and arbitrary, and quash the same by calling for records relating to the said award dated 4.2.2011.”

Heard Sri A. Rama Rao, learned counsel for the petitioner and Sri S.M. Subhan, learned counsel for the respondents, apart from perusing the material available before this Court.

The 1st respondent herein was regularized as Conductor on 01-08-1992. The Depot Manager, Adoni, Kurnool District by virtue of an order, dated 29-11-2006 removed the 1st respondent herein from service on the following charges:

“1. For having failed to observe the rule “Issue of correct ticket & start” which constitutes misconduct under Reg.28 (vi) (a) of APSRTC Employees’ (Conduct) Reg.1963.

2. For having collected the requisite fare amount @ Rs.6/- from a batch of two passengers towards their journey from Raravi Test Identification Parade Siriguppa, exstages 8 to 10 at their boarding point itself, but failed to issue tickets to them, which constitutes misconduct under Reg.28 (vi) (a) of APSRTC Employees’ (Conduct) Reg.1963.

3. For having failed to issue correct tickets to the above said passengers and failed to close the ticket tray numbers of all denominations in the STAR No.034/852103 dated 26-07-2006 against the Stage No.10, which constitutes misconduct under Reg.28 (xxxii) of APSRTC Employees’ (Conduct) Reg. 1963.”

Aggrieved by the said order of removal passed by the Depot Manager the petitioner herein filed appeal and the appellate authority by way of an order, dated 18-12-2006 dismissed the said appeal, confirming the orders of removal

passed by the Depot Manager.

Questioning the validity of the said order the 1st respondent herein filed Review and the Regional Manager, Kurnool by way of order, dated 14-02-2007 directed reinstatement of the 1st respondent herein as fresh Conductor.

Against the said order, the 1st respondent herein raised I.D.No.15 of 2009 before the Industrial Tribunal –cum- Labour Court, Anantapur and the Tribunal by virtue of award dated 04-02-2011 directed restoration of the past service of the 1st respondent herein without any punishment in the exact timescale while setting aside the order passed by the reviewing authority.

Calling in question the validity and legal sustainability of the said order passed by the Industrial Tribunal – cum- Labour Court, the present writ petition came to be filed.

This Court while ordering *rule nisi* on 22-12-2011 granted interim stay in W.P.M.P.No.41896 of 2011 and seeking vacation of the said order W.V.M.P.No.2463 of 2012 has been filed by the 1st respondent herein. However, with the consent of both sides this Court is inclined to hear the main writ petition.

It is contended by the learned Standing Counsel for the petitioner herein that the questioned award is erroneous, contrary to law and opposed to the very spirit and object of provisions of Industrial Disputes Act. It is also submitted by the learned Standing Counsel that in view of the serious irregularities committed by the 1st respondent herein the Industrial Tribunal – cum- Labour Court grossly erred in passing the impugned order by showing sympathy. It is further submitted by the learned Standing Counsel that the Tribunal ought not to have disturbed the well-considered order passed by the Regional Manager/Reviewing authority and the order passed by the Tribunal, ordering continuity of service is erroneous and contrary to law.

Per contra, it is contended by the learned counsel for the vacate petitioner/1st respondent herein that the order of the Industrial Tribunal – cum – Labour Court is perfectly justified and not amenable for any interference under Article 226 of the Constitution of India in view of the reasons assigned by the

Tribunal. It is also submitted by the learned counsel for the 1st respondent that there is no illegality nor any procedural infirmity in the impugned award, as such, the present writ petition is not maintainable under Article 226 of the Constitution of India. Learned counsel placed reliance on the judgment of the Apex Court in **ISHWAR CHANDRA JAYASWAL v. UNION OF INDIA AND OTHERS**

The material available before this Court manifestly discloses that as against the orders passed by the primary and the appellate authorities, the 1st respondent herein preferred review before the Regional Manager, Kurnool and the Regional Manager, Kurnool by way of an order, dated 14-02-2007 directed appointment of the 1st respondent herein afresh as Conductor in Grade-II with minimum timescale.

The 1st respondent herein raised I.D.No.11 of 2009 against the said order of the reviewing authority and the Industrial Tribunal – cum – Labour Court, Ananthapur passed the impugned order, directing restoration of the past services of the petitioner without any punishment in the exact timescale while setting aside the orders of the reviewing authority.

A perusal of the said order passed by the Industrial Tribunal – cum – Labour Court, in clear and unequivocal terms, demonstrates that the Industrial Tribunal thoroughly and meticulously considered all the issues and took into consideration the judgment of this Court reported in 1988 (2) ALT NRC 66 and passed the impugned order. It is also clear from the impugned order that the Industrial Tribunal passed the same in exercise of the powers conferred under Section 11-A of the Industrial Disputes Act. It is settled and well established proposition of law that for issuing Writ of Certiorari the condition precedent is patent perversity in the impugned action.

In the instant case, no such infirmity could be pointed out by the petitioner herein since the Industrial Tribunal – cum – Labour Court passed the impugned order by exercising its discretion under Section 11-A of the Industrial Disputes Act and as this Court finds no patent perversity in the findings of the Industrial Tribunal – cum – Labour Court, this Court is not inclined to meddle with the impugned order.

In view of the above reasons, the writ petition is dismissed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

A.V. SESA SAI, J

November 07, 2015

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