

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.13032 of 2005

ORDER:

The petitioner, a Conductor in the service of the Andhra Pradesh State Road Transport Corporation (APSRTC), filed this writ petition aggrieved by the Award dated 06.09.2001 passed by the Labour Court-III, Hyderabad, in I.D.No.9 of 1999, insofar as it denied him attendant benefits, back wages and notional increments.

The petitioner was appointed in the service of the APSRTC in the year 1989 and his services were regularised in the year 1990. While he was conducting a bus service from Chowderipally to Chikatimamidi on 25.01.1995, a check was carried out and he was subjected to disciplinary proceedings on four charges. The first charge was that he had violated the rule 'Issue and Start', while the other three charges were more serious in nature, involving cash and ticket irregularities. By order dated 13.06.1999, he was removed from service upon the Enquiry Officer recording the finding that he was guilty of all four charges.

Unsuccessful in appeal, and thereafter in review, the petitioner invoked the jurisdiction of the Labour Court under Section 2-A(2) of the Industrial Disputes Act, 1947, in I.D.No.9 of 1999. By the Award dated 06.09.2001, the Labour Court held that the petitioner could, at best, be held guilty of only Charge No.1 and that the other charges against him were not made out. As the petitioner filed a memo through counsel before the Labour Court during the course of arguments that he was not pressing for the relief of back wages, the Labour Court took note of the same and passed the Award directing reinstatement of the petitioner in service with continuity of service but without back wages. Aggrieved by the denial of these reliefs, the petitioner filed this writ petition.

Insofar as the issue of back wages is concerned, as the petitioner himself

filed a memo before the Labour Court giving up his right to seek back wages, it is not open to him to now back track from his own action.

However, insofar as the issue of notional increments is concerned, the fact remains that the petitioner was held guilty of only the minor charge of violating the rule of 'Issue and Start'. In effect, his removal from service was wholly disproportionate to this single established charge. He has been adequately punished in terms of losing his wages for the period that he remained out of service. Therefore, the benefit of continuity of service in this case would have to be interpreted to mean and include notional benefits for the period that the petitioner remained out of service.

This is not a case which falls strictly within the four corners of the law laid down by the Supreme Court in **APSRTC AND ANOTHER v. S.NARSAGOULD**, as the punishment imposed upon the petitioner was shockingly disproportionate to the single charge established against him. On these considerations, this Court is of the opinion that the principle laid down in **S.NARSAGOULD**'s case (supra) would not apply to this case and that the petitioner would be entitled to the benefit of notional increments for the period that he remained out of service. The Telangana State Road Transport Corporation, the successor-in-interest of the erstwhile APSRTC in the State of Telangana, shall therefore extend to him such benefit within eight (8) weeks from the date of receipt of a copy of this order.

The writ petition is allowed 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.

SANJAY KUMAR, J

Date:13.10.2015

GJ