

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

WP.No.12310 of 2003

Between:

The Depot Manager, APSRTC,
Satyaveedu, Chittoor dist.

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... Petitioner/Appellant (s)

and

Industrial Tribunal-cum-Labour, Court,
Ananthapur and another.

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... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 06.08.2015

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SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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| 1 | <u>Whether Reporters of Local newspapers</u>
<u>may be allowed to see the Judgments?</u> | <u>Yes/No</u> |
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| 2 | <u>Whether the copies of judgment may be</u>
<u>marked to Law Reports/Journals</u> | <u>Yes/No</u> |
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| 3 | <u>Whether Their Ladyship/Lordship wish to</u>
<u>see the fair copy of the Judgment?</u> | <u>Yes/No</u> |

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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.12310 OF 2003

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ORDER:

This petition is filed for a writ of *Certiorari* calling for the records relating to ID.No.296/2000 on the file of the Labour Court, Anantapur and quash its award dated 24.12.2002 by issuing appropriate direction.

The case of the petitioner is that the 2nd respondent who was a driver while working at Satyaveedu Depot on 06.05.1999 attended the Garage in intoxicated condition and abused the on duty Security Guard Sri A.V.Gopal and bet him causing scratches on his face and also tore his banian; that the said security guard gave report to the Security Head Guard and thereafter, the 2nd respondent was placed under suspension and a charge sheet was issued with the following charges.

1. For having attended the garage for duty in an intoxicated condition on 06.06.1999 and brought the vehicle for service which is misconduct under Reg.28(xxii) of APSRTC Employees (conduct) Regulations, 1963.
2. For having assaulted Sri E.V.Gopal, E.68917 on duty Security Guard of Satyaveedu Depot on 06.05.99 by scratching, scolding and tearing his clothes which is a misconduct under Regulation 28(xv) of the APSRTC Employees (conduct) Regulations, 1963.

As the 2nd respondent failed to submit satisfactory explanation, a departmental enquiry was ordered and the 2nd respondent participated in the enquiry. Basing on the gravity of the charges and considering the evidence on record, the 2nd respondent was removed from service on 04.08.1999. Thereafter, the appeal and review preferred by the 2nd respondent were also rejected on 19.04.2000 and 24.10.2000, respectively, duly confirming the order of removal. Against the same the 2nd respondent preferred I.D.No.296/2000 before the Labour Court, Anantapur and the Labour Court passed an award on 24.12.2002 directing the Corporation to reinstate the workman into service with continuity of service with half back wages and imposed punishment of deferment of two annual increments without

cumulative effect. Aggrieved by the same, present writ petition is filed.

Sri A.Rama Rao, learned Standing Counsel for the APSRTC submits that the charges are grave in nature and that the enquiry officer as well as disciplinary authority find that the charges are proved and the same were also confirmed in the revision. He also submits that the Labour Court, on an erroneous view of the matter without reference to charges, rendered perverse findings, without any basis, as such, the same is liable to be set aside. He further submits that the charges framed against the 2nd respondent are grave in nature and the punishment imposed by the Labour Court is too meager for the charges leveled against him.

On the other hand, Sri S.D.Goud, learned counsel for the 2nd respondent submits that when once the Labour Court passed an award, this Court cannot interfere with the same. He also submits that removal of punishment is harsh and that other than removal of service any other punishment can be imposed and that the 2nd respondent is already reinstated into service and as on today he is working.

In this case the charges framed against the 2nd respondent are grave in nature and the disciplinary authority also found that the charges are proved. Though the appeal as well as review preferred by the 2nd respondent was also rejected, the Labour Court holds that it is not in dispute that the Enquiry Officer and the respondent have not violated the principles of natural justice. When the case of the petitioner is that they have conducted enquiry and after following due procedure, the Disciplinary

Authority confirmed the same on the guilt of the 2nd respondent, it is not known how the Labour Court came to a conclusion that principles of natural justice are violated. The Labour Court finds that the respondent who is the petitioner herein has not discussed whether the 2nd respondent/petitioner has driven the vehicle on the previous day or not and whether he has noted the defects in the log sheet or not. But, this is not the subject matter of the charge. The charge is that he has attended the garage for duty in an intoxication condition on 06.05.1999 and brought the vehicle for service and that he has assaulted the security guard. The Labour Court also find that the statements made at the time of enquiry and the explanation are contradictory, but, the same was not discussed in the award as to what is contradictory as per Labour Court. The Labour Court also assumes that normally at 5.30 a.m., is not the time for taking liquor, when the respondent adduced evidence and the same is held to be proved. So in view of the above, the finding of the Labour Court that charges are not proved is without any basis. The learned counsel for the 2nd respondent contended that the punishment of removal is harsh and disproportionate. Though the learned counsel for the petitioner states that because of grave charges removal itself is an appropriate punishment and though the charges are held to be proved, but I find punishment of removal will be shockingly disproportionate and since the learned counsel for the 2nd respondent agreed that other than removal any other punishment can be imposed instead of remitting the matter to the authorities again at this point of time, the punishment imposed by the Labour Court for deferment of annual increment for two years without cumulative effect is modified to deferment of annual increment for two years with cumulative effect.

Accordingly, the writ petition is disposed of modifying the award of the Labour Court by imposing punishment of deferment of annual increment for two years with cumulative effect. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

A.RAJASHEKER REDDY, J

06.08.2015
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