

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.26346 of 2015

Order:

Heard Sri P.Govinda Rajulu, learned counsel appearing for the petitioner and Sri A.Ravi Babu, learned Standing Counsel for the respondents-APSRTC.

2. The petitioner while working as a contract conductor in the 3rd respondent-Depot was terminated from service on the ground that he absented from duties from 11-11-2013 for a period of 3 days without prior permission. A disciplinary enquiry was conducted against the petitioner and on the ground that the absenteeism of the petitioner resulted in dislocation of the services, he was terminated from service on 31-12-2013. The said termination order is challenged in the present writ petition.

3. The learned counsel appearing for the petitioner submits that the Enquiry Officer conducted the enquiry without the presence of the petitioner and submitted a report to the Disciplinary Authority. The Disciplinary Authority upon receiving the said report passed an order dated 31-12-2013 terminating the services of the petitioner. It is submitted on behalf of the petitioner that the petitioner submitted an application seeking grant of leave on the ground of ill health to the Traffic Supervisor

but the same was not forwarded to the 3rd respondent and therefore, the charge of absenteeism levelled against him is illegal.

4. In any event, the enquiry was completed and the punishment of termination from service was awarded against the petitioner. The learned single Judge of this Court through order dated 26-6-2012 in W.P.No.19003 of 2012, following the judgment of another learned single Judge of this Court in W.P.No.2786 of 2012 and batch, dated 29-02-2012, took the view that the punishment of terminating the employee from service on the ground of absenteeism for a few days is grossly disproportionate and the petitioner is entitled for reinstatement.

This Court further took the view that when the petitioner challenges the termination order on the ground of non-compliance with the principles of natural justice, he can directly approach this Court by invoking the jurisdiction under Article 226 of the Constitution of India without availing the alternative remedy of appeal. Against the order dated 26-6-2012 in W.P.No.19003 of 2012, the Corporation preferred W.A.No.641 of 2013. The Division Bench of this Court through common order dated 25-4-2013 in W.A.No.641 of 2013 (along with W.A.No.1665 of 2012 and batch) dismissed the appeal confirming the order passed by the learned single Judge.

5. In the instant case, the termination of the services of the petitioner is based on the charge that he was absented for duties for a period of 3 days without prior sanction of leave or prior permission of the superiors. The punishment imposed against the petitioner is therefore shockingly disproportionate. Therefore, the same is liable to be set aside in the present writ petition.

6. Consequently, the termination order dated 31-12-2013 passed against the petitioner is set aside and the petitioner is reinstated into service with all consequential benefits. The respondents can however impose a minor penalty to the petitioner for the absenteeism of 3 days having due regard to the gravity of the misconduct. The writ petition is accordingly disposed of. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

R.KANTHA RAO, J.

27th August, 2015.
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