

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.26644 of 2003

ORDER:

This writ petition is filed to quash award in I.D.No.261 of 1998 dated 14-09-2001 and to grant continuity of service, attendant benefits, back wages, attendant benefits and to pass such other orders that may deem fit and proper under circumstances of the case.

2. Petitioner herein was appointed as Driver in respondent-Corporation on 28-12-1987. The petitioner was worked as a Driver in A.P.S.R.T.C., Adoni Depot prior to his removal from service. The petitioner is irregular in attending his duties. On the report of the Depot Authorities the respondent issued a charge sheet with the following allegation:

“For having maintained irregular attendance during the period from 01-01-1991 to 29-02-1992 by remaining not available for duty for 305 days (10 days Leave + 20 days sick + 202 days private sick, 73 days absent) excluding offs, C/offs, W/offs, spl offs etc., resulting in dislocation of the services and inconvenience to the traffic supervisors and the traveling public which constitutes misconduct under clause xxvii of Reg.28 of APSRTC Employees (Conduct) Reg. 1963.”

A departmental enquiry was conducted on the above referred allegations and petitioner was found guilty of the charges and orders were issued terminating his services through proceedings dated 08-01-1993. Aggrieved by that order the petitioner without approaching the appellate and review authorities filed claim statement under Section 2 (A)2 of the Industrial Disputes Act before Industrial Tribunal-cum-Labour Court, Anantapur which was registered as I.D.No.261 of 1998 and the Labour Court passed an

award on

14-09-2001 directing respondent Corporation to reinstate the petitioner as fresh Driver by reducing his pay to three annual increments with cumulative effect. Challenging the said award, present writ petition is filed.

3. Heard arguments.

4. Advocate for petitioner submitted that Labour Court having set aside the termination order passed by respondent Corporation is not justified in imposing punishment like, fresh appointment and reducing the pay to three annual increments with cumulative effect, the same would amount to double jeopardy. He further submitted, this Court in similar set of facts in W.P.Nos.3563 of 2003 and 4853 of 2006 held that ordering stoppage of three annual increments with cumulative effect is against principles of natural justice and would amount to double jeopardy and pleaded to set aside the order of Labour Court atleast to the extent of stoppage of three annual increments.

5. On the other hand, advocate for respondent Corporation submitted that petitioner in the spot explanation admitted the irregularities and that Labour Court has not committed any error and that there are no grounds to set aside the award dated 14-09-2001.

6. I have perused the judgments of this Court in W.P.No.3563 of 2003 dated 04.08.2009 and W.P.No.4853 of 2006 dated 31.10.2013. In W.P.No.4853 of 2006 this Court while relying decisions in **P.Habeen Saheb v. The APSRTC**^[1] and **Durgavathi Devi and others v. Union of India**^[2], observed imposing further

punishment of stoppage of increments from a cadre where petitioner is yet to be born is absolutely onerous and unsustainable. As rightly pointed out, petitioner was given fresh appointment as a Driver, therefore, ordering reduction of pay to three annual increments with cumulative effect is definitely double jeopardy because petitioner has already lost all his service, back wages and attendant benefits. When Labour Court held that a lenient view has to be taken considering the nature of charges, having ordered for fresh appointment, ordering reduction of pay to three annual increments with cumulative effect is definitely unreasonable and a shocking punishment, therefore following the judgment of this Court in W.P.No.4853 of 2006, I am of the view that interests of justice would meet if the order of Labour Court is modified by setting aside the direction to the extent of reduction of pay to three annual increments with cumulative effect.

7. Therefore, writ petition is allowed to the extent of setting aside the direction of Labour Court through award in respect of reduction of pay to three annual increments with cumulative effect and rest of the award is upheld. Writ petition is ordered, accordingly.

8. Miscellaneous Petitions pending, if any, shall stand closed.
No costs.

S. RAVI KUMAR, J

December 28, 2015.

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HON’BLE SRI JUSTICE S. RAVI KUMAR

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[\[1\]](#) 1995 (1) ALT 553 (DB)
[\[2\]](#) 2004 (6) ALD 672