

HONOURABLE SRI JUSTICE S.RAVI KUMAR

WRIT PETITION No.3827 OF 2003

Dated 17-11-2015

Between:

V.Ramulu.

..Petitioner.

And:

The Labour Court-II, represented by its Presiding Officer, 4<sup>th</sup> Floor,  
Chandra Vihar Building, Nampally, Hyderabad and others.

..Respondents.

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ORDER:

This writ petition is filed challenging the award dated 28-2-2002 in I.D.No.44 of 1999.

Petitioner herein was working as conductor in A.P.S.R.T.C. from 4-2-1970. While so, the second respondent herein issued a charge sheet dated 2-7-1998 making allegations that the petitioner kept tickets bearing Nos.066/514381 and 382 of Rs.40/- denomination having punch marks on stages Nos.17 to 41 in the ticket block without showing the sale of these tickets in S.R.No.684168 while performing his duty on 21-6-1998 and that he issued Rs.2/- denomination i.e., 276/698268 and 698269 on stage No.17 which are combination to Rs.40 and Rs.10/- denomination on stage No.17 in S.R.No.6864168 for which the petitioner submitted explanation but the respondents not satisfied with the explanation, ordered for domestic enquiry. On the basis of findings of the Enquiry Officer, a show cause notice was issued to the petitioner proposing punishment of removal and

thereafter, order of removal is passed against the petitioner. The petitioner preferred appeal to the Deputy Chief Traffic Manager, Nizamabad who is an appellate authority and the appellate authority has not passed any order even after expiry of four months time, on that, petitioner approached Labour Court and the Labour Court, on consideration of evidence and material on record held that charges levelled against the petitioner are not proved beyond reasonable doubt and that the second respondent was not justified in removing petitioner from service. But while observing that the charges levelled against the petitioner are not proved, Labour Court ordered reinstatement of petitioner into service with continuity of service without back wages. Aggrieved by this, the petitioner employee filed this writ application contending that when the charges are not proved and having come to the conclusion that petitioner is entitled for reinstatement denying back wages is in violation of Articles 14, 16 and 21 of Constitution of India.

Respondents filed counter disputing affidavit averments of the petitioner and contended that petitioner received Rs.46,468/- without any objection and having received all the retirement benefits, he cannot now contend that he is entitled for back wages. He further submitted that having received all the retirement benefits, the present writ is filed almost one year after retirement.

The main contention of advocate for petitioner is even regulations of Corporation contemplate payment of full pay and allowances with all consequential benefits when an employee is reinstated on exonerating from charges. Advocate for petitioner submitted that it is specifically pleaded before the Labour Court that the petitioner could not secure any alternative employment from the date of his removal from service and on account of his unemployment, he and his family members are facing much hardship but that aspect was not considered by the Labour Court while passing orders in respect of back wages. He further submitted that denying back wages by Labour Court is incorrect and violative of principles of natural justice and the same has to be set aside.

Advocate for respondents submitted that the back wages amounts to about four and half years and the financial position of Corporation has to be taken into consideration while ordering for such payment.

I have perused the material papers including the impugned award dated 28-2-2002.

The Presiding Officer of the Labour Court gave a specific finding that charges levelled against the petitioner herein are not proved and that removal from service is not justified. Even A.P.S.R.T.C. Employees (Classification, Control and Appeal) Regulations, 1967 contemplates

punishment only if the charges levelled against the employee are proved and when charges are not proved, the question of imposing any punishment does not arise. But here, the Labour Court having found that charges are not proved against the petitioner, still it has denied back wages to the petitioner.

A.P.S.R.T.C. Employees (Classification, Control and Appeal) Regulations, 1967 contemplates when a reinstatement is ordered, on exoneration of the charges, the employee shall be granted full pay and allowances to which he would have been entitled had he not been dismissed, removed or suspended as the case may be. So, the very regulation of the corporation contemplates payment of full pay and allowances when the petitioner is reinstated on exonerating the charges, the corporation has not challenged that finding and having not challenged, it is not open to the Corporation to object for payment of back wages.

As rightly pointed out by counsel for the petitioner when the petitioner is given a clean chit of the charges as a rule he is entitled for wages and as the Labour Court has denied such benefit, this Court by exercising powers under Article 226 can interfere and set aside that part of order of the Labour Court denying the back wages.

For these reasons, this writ petition is allowed ordering payment of back wages in terms of A.P.S.R.T.C. Employees (Classification, Control and Appeal) Regulations, 1967.

As a sequel to the disposal of this writ petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

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JUSTICE S.RAVI KUMAR

Dated 17-11-2015.

Dvs.

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Dvs