

THE HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT APPEAL No.23 of 2007

JUDGMENT: (Per Hon'ble Sri Justice A.Ramalingeswara Rao)

This Writ Appeal is against the order dated 20.08.2005 passed in W.P.No.21370 of 1999 dismissing the said Writ Petition filed by the appellant.

The first respondent was appointed as a Driver in 1986. While he was driving the vehicle on 31.01.1995 on the route Sampathnagar night out service, he came to the Kothagudem bus stand and later on he left the vehicle and got admitted in hospital. He was issued a charge sheet on 08.02.1995 with the following charges:

- “1. For having absconded from your duties after returning from night out trip of 11.30 hrs. Sampathnagar service on 31.1.1995/1.2.95 after getting the vehicle on the platform to operate the second trip you have absconded from bus station without any intimation to the depot authorities which resulted the service was operated late and caused much inconvenience to the traveling public besides tarnishing the image of the Corporation, which is misconduct as per APSRTC Employees (Conduct) Reg.28 (xxvii) and (xxxii) of 1963.
2. For having driven the vehicle in intoxicated condition while you were performing your duty of 11.30 hrs night out Sampathnagar service on 31.1.95/2.1.95 which is misconduct as per APSRTC Employees (Conduct) Reg.28 (ix)(a) and (xxxii) of 1963.”

A departmental enquiry was conducted after issuing a show cause notice to the first respondent on 26.05.1995 and an order of removal from service was passed on 16.06.1995. The said order was challenged by the first respondent before the Industrial Tribunal – cum – Labour Court at Warangal in I.D.No.247 of 1995. None were examined and no document was presented before the Labour Court. The Labour Court, considering the rival averments made in the pleadings, passed an award setting aside the order of removal passed by the respondent therein dated 16.06.1995 and directed the respondent therein to reinstate the

petitioner therein into service with continuity of service together with back wages at the rate of 50%. The said award was challenged by the appellant herein before the learned single Judge in W.P.No.21370 of 1999. The learned single Judge dismissed the said Writ Petition by order dated 20.08.2005 holding as follows:

“At the outset, I am of the opinion that the Tribunal has not committed any error warranting interference of this Court under Art.226 of the Constitution of India. Admittedly, the misconduct alleged against the workman is only absconding from duty after performing the first trip of the night duty. Further, he was in intoxicated condition while performing the duties at 1130 hours. Insofar as the first charge as to absconding from duty is concerned, the Duty Controller one M.N. Reddy categorically stated that the workman informed him about his sickness and suffering with fever and also his inability to drive the vehicle and discharge his duties and left the place. There was no other evidence to show that the petitioner absconded from duty without informing anybody. Insofar as intoxication is concerned, absolutely there is no evidence except the passengers saying that he was under intoxicated condition. None of them were examined before the Enquiry Officer nor the workman was subjected to medical test. Thus, neither it is a case of absconding from duty nor it is proved that the workman drove the vehicle in an intoxicated condition. Under these circumstances, the Labour Court rightly came to the conclusion that the removal order passed by the Management is arbitrary, illegal and liable to be set aside; accordingly, directed reinstatement of the workman with continuity of service and other attendant benefits and also with 50% of back wages. I am of the opinion that the Tribunal has not committed any error in coming to such conclusion. The Writ Petition is devoid of merits and liable to be dismissed.”

We have carefully perused the award of the Labour Court as well as the order of the learned single Judge. The appellant, who was the petitioner before the learned single Judge, did not prove his case before the Labour Court and accordingly, the Labour Court held against the appellant. We see no reason to interfere with the order passed by the learned single Judge.

The Writ Appeal is liable to be dismissed, and the same is, accordingly, dismissed. The miscellaneous petitions, if any, stand disposed of. There shall be no order as to costs.

(DILIP B. BHOSALE, J)

(A.RAMALINGESWARA RAO, J)

05.02.2015

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