

*** THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

+ WRIT PETITION No. 23994 OF 2006

% Dated 07.04.2015

The Depot Manager

A.P.S.R.T.C

Sangareddy Depot

Medak District Petitioner

Vs.

\$ Md. Basheeruddin (died) per LR

S/o Md. Jamaluddin

C/o HIG-1, Block-2, Flat-16

Bagh Lingampally,

Hyderabad-500 044 & 2 others ... Respondents

! Counsel for the petitioner : Sri N. Vasudeva Reddy

Learned Standing Counsel for APSRTC

^ Counsel for the respondents : Sri P. Sridhar Rao

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? Cases referred

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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WRIT PETITION NO. 23994 OF 2006

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ORDER:

This writ petition is preferred by the Depot Manager, A.P.S.R.T.C, Sanga Reddy Depot, Medak District, calling in question the correctness of the award passed on 25.06.2005 in I.D.No.31 of 2004 by the Industrial Tribunal-II, Hyderabad, which was published on 10.08.2005 through G.O.Rt.No.1647 Labour Employment Training and Factories (Lab.I) Department, of the State Government. The original first respondent was employed as a driver to begin with, on a temporary basis on 27.03.1976. On the ground that he remained unauthoroziedly absent for 37 days between 01.04.1994 to 16.06.1994, thus causing dislocation of services, the Depot Manager terminated his services as a measure of punishment. That was called in question by the original first respondent by raising I.D.No.14 of 2002 before the Labour Court-II, Hyderabad. The said I.D.No.14 of 2002 was transferred to the Industrial Tribunal-II, Hyderabad, where it was renumbered as I.D.No.31 of 2004. It was not in dispute that initially the first respondent-workman was sanctioned three days of leave and that was followed by 25 days of sick leave. But however, on the ground that he is not reporting to duty immediately after the sick leave has expired, the Depot Manager passed orders on 29.11.1994 terminating his services as a driver for the unauthorized absence. The Labour Court has re-appreciated the entire material that was brought before the Domestic Tribunal and then passed its award setting aside the order dated 29.11.1994 and since by the date the award came to be passed, the workman having already attained the age of superannuation, instead of reinstating him, the relief is moulded and a lump-sum amount of Rs.65,000/- was awarded apart from granting notional benefits such as annual grade increments, etcetera, till he attained his age of superannuation for purposes of computation of terminal benefits.

Heard Sri Vasudeva Reddy, learned Standing Counsel for the A.P.S.R.T.C on behalf of the petitioner. Since the first respondent-workman died during the pendency of this writ petition, his wife came on record as third respondent. Heard Sri P. Sridhar Rao, learned counsel on her behalf.

All through, the workman was pleading that he was not maintaining good health and hence, he initially proceeded on leave for three days and subsequently he has also proceeded on sick leave for 25 days and he has also received necessary treatment

from the Government Hospital at Siddipet, Medak District. In spite of his producing the necessary certificates in that regard, the Corporation has not taken the same into account and consideration and proceeded to impose the major punishment on 29.11.1994. The Labour Court found that the punishment has been imposed very excessively and harshly. Once the Depot Manager is in the know that the workman was not maintaining good health and he has also proceeded on sick leave for 25 days and subsequently when he was able to produce the evidence in the form of a medical certificate from a Government Hospital, the Depot Manager should not have concluded that the petitioner is guilty of unauthorized absence. The fact may have remained that, he may not have applied for sanction of leave in advance, but however, if a person is truly sick, the requirement of his applying for and securing sanction of leave in advance should not have been insisted upon. Looked at this perspective, the reasons assigned by the Industrial Tribunal for interfering with the impugned order passed by the Depot Manager on 29.11.1994 are reasonable. In a certiorari jurisdiction, the fact that a different view could have been taken in the given circumstances is not an answer for substituting the opinion for that of the Industrial Tribunal.

This apart, I find that the Industrial Tribunal has taken not only a reasonable view of the entire matter, but it has also moulded the relief by awarding an amount of Rs.65,000/- as compensation while denying backwages. Even in this regard, the power exercised by the Industrial Tribunal is fair and reasonable.

It has been pointed out repeatedly that, Regulation 8 of the A.P.S.R.T.C Employees (Classification, Control and Appeal Regulations) Rules, 1963, provided for imposition of various punishments commensuring from withholding of increments ending up with dismissal from service. The Depot Managers, the disciplinary authorities are required to judge as to what best punishment should be imposed which would be commensurate to the quantum of guilt held established. For every misconduct, the Depot Managers have been imposing the punishment of dismissal from service. Such a mechanical view of the disciplinary authority cannot be appreciated at all. The punishment must invariably meet the quantum of guilt behind the charge laid and it should not only suit the occasion, but also should meet the

standard of the employee proceeded against. It is no doubt true that, if a driver of a Corporation suddenly stops reporting to duty, there is bound to be some inconvenience and difficulty encountered in the process by the Depot Manager. He will not be able to utilize the available manpower effectively. Sometimes, for want of drivers, certain bus services have got to be cancelled at the very last minute. Such cancellations are bound to cause lot of inconvenience to the commuting public and in the process, apart from losing revenue, reputation of the Corporation will also receive a beating in the opinion of the general public. But however, when a driver is truly sick, it would be far more expedient not to book him for service on the day when he was sick, as it might lead to some other complications, inasmuch as, the irritability of a sick driver can possibly lead up to otherwise unavoidable accident. Therefore, a proper balance has to be struck between the interests of the Corporation as well as the interests of the employees. Since, the Depot Manager has not kept this balance in view while passing the orders on 29.11.1994, the Industrial Tribunal, in my opinion, has rightly interfered with the said order and set-aside the same.

Hence, the award passed by the Industrial Tribunal does not call for any interference at my hands and accordingly this writ petition stands dismissed.

Consequently, miscellaneous applications pending shall also stand dismissed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

07.04.2015

note: LR copy to be marked

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