

HON' BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.3187 OF 2004

ORDER:

This Writ Petition is filed against the award dated 29.08.2002 in I.D.No.93 of 2000 passed by the Labour Court, Guntur, wherein the Labour Court passed nil award by not granting relief to the petitioner against his dismissal of removal from service.

The following three charges are framed against the petitioner, which read as follows:

“CHARGE No.1: He had beaten B.Yesobu, villager of Nidamanur with hand tray and caused swelling above the left ear while the workman was conducting the bus on the route Atkur to KR.Market in the bus AP 9z 9305 on 19.1.98 which constitutes serious misconduct under Reg.28(xxi) of APSRTC employees (Conduct) Reg.1963.

CHARGE No.II: He has tarnished the image of corporation by creating scene in the public by assaulting Yesobu on 19.1.98 while he was conducting the bus on the route Atkur-KR.Market which would constitute misconduct under Reg.28(xxi) of APSRTC employees (Conduct) Reg.1963,

CHARGE No.III: For not allowing a boy aged about 10 years into the bus and thrown away the boy fromt hebus on the plea that there was no place in the bus at Nidamanur on the plea that there was no place in the bus at Nidamanur ont eh same day while proceeding from Atkur to KR.Market even-though there is no evidence regarding the number of Passengers in the bus and also with regard to overload of the bus which would constitute misconduct under Reg.28(xxi) of APSRTC employees (Conduct) Reg.1963.

Out of the three charges, the Authorities below held that Charge Nos. 2 and 3 are not proved and Charge No.1 is proved.

Learned counsel for the petitioner submits that there is variation between the statements of the complainant and driver. He also submits that the complainant was said to be assaulted by the petitioner and wanted some action against the petitioner, but not removal or dismissal. He further submits that the Enquiry Officer as well as Disciplinary Authorities and the Labour Court have not dealt with the evidence in respect of Charge No.1. When Charge Nos.2 and 3 are held not proved, the basis for Charge No.1 also goes. The Disciplinary Authority and the Labour Court have not considered the same. He also submits that the punishment imposed was disproportionate to the charge that is proved against the petitioner. He also submits that the Labour Court, basing on the punishments imposed earlier, did not exercise the discretion vested in it under Section 11-A of the Industrial Disputes Act, but still passed orders of removal.

On the other hand, the learned counsel for the respondents submits that Charge No.1 is a serious charge. The Enquiry Officer and Labour Court rightly held that Charge Nos.2 and 3 are not proved. Hence, no interference is required in the impugned order.

A perusal of the record shows that even with respect to Charge No.1, the statements of the driver and the complainant are not consistent. But, however, the Labour Court found that Charge No.1 is proved. This Court cannot re-appreciate the evidence and disturb the findings on fact arrived by the Disciplinary Authorities as well as the Labour Court. In this case, the fact remains that even the complainant did not want the petitioner to be removed from the service but some punishment to him. Though it is stated that the punishment is imposed on the petitioner earlier but the same cannot be taken into account in the present case.

In view of the above facts and circumstances, this Court feels that the punishment is shockingly disproportionate to the misconduct alleged against the petitioner and more over, he was not in service from 1999 onwards. Hence, this Court is of the view that since Charge No.1 is proved against the petitioner, he cannot get any monetary benefits during the period of his absence from service. But, however, in the facts and circumstances, the petitioner's case can be considered for fresh appointment.

Accordingly, the award dated 29.08.2002 in I.D.No.93 of 2000 passed by the Labour Court, Guntur, is modified and respondents are directed to give fresh appointment to the petitioner, subject to his medical fitness as per the Rules in force. No costs.

As a sequel, the miscellaneous petitions, if any, pending shall stand closed.

A. RAJASHEKER REDDY, J

Date: 29-12-2016

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