

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 8342 of 2011

Date :26.8.2016

Between :

The Divisional Manager,
APSRTC, Kakinada, E G District

Petitioner

And

The Hon'ble Industrial Tribunal cum Labour Court,
Visakapatnam,
Rep by its Presiding Officer and another

Respondents

The Court made the following:



HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 8342 of 2011

ORAL ORDER:

2nd respondent was detained for duty on bus between Charla to Draksharamam on 24.8.2004. When the check was conducted on the bus, checking officials noticed certain irregularities in issuing tickets. 2nd respondent was served with charge sheet on 24.12.2004. The sum and substance of the allegation in the charge sheet was that 2nd respondent re-issued the tickets of Rs.10/- denomination at stage No. 41 which were already once sold and accounted. Defense taken by the 2nd respondent was that there was dim light and in dim light he misread the number as 158 instead of 153 and it was a bonafide mistake. Not accepting such defense, the disciplinary authority passed orders on 19.4.2005 imposing the punishment of reduction of annual increments by one stage for a period of two years which would have effect of postponing the future increments. On the appeal preferred by 2nd respondent, the Appellate Authority by order dated 25.08.2006 modified the punishment to that of reduction of basic pay by one incremental stage for a period of one year which would have the effect on the future increments. Revision filed by him was rejected. Aggrieved thereby 2nd respondent raised Industrial Dispute before the Industrial Tribunal cum Labour Court, Visakapatnam and the same was registered as I.D. No. 64 of 2008. By award dated 7.10.2009 the Labour Court declared the punishment imposed as not justified and modified the punishment to one annual increment without cumulative effect. The State Road Transport Corporation assailed the said award in this writ petition.

2. It is not in dispute that the punishment imposed by the Disciplinary Authority was major punishment. The punishment has permanent effect on incremental pay of the 2nd respondent for the rest of the service. Even the modified punishment of the Appellate Authority has the same effect, though the incremental reduction is made operative for one year. It is not in dispute that no

enquiry was conducted as required by the Conduct Regulations of the petitioner corporation but straightaway punishment was imposed after considering the explanation and based on the preliminary enquiry report.

3. As seen from the order of the Appellate Authority, the Appellate Authority does not attribute any malice to the conduct of the 2nd respondent but holds him as negligent in performing his duties.

4. Having regard to these circumstances, the Labour Court while holding that 2nd respondent was negligent, modified the punishment to that of postponement of annual increment without cumulative effect.

5. Whenever a major punishment is imposed, it is mandatory to hold an enquiry in accordance with the service regulations. Since in the instant case, no such enquiry was conducted, the punishment is vitiated. Thus, even assuming that what is contended by the learned counsel for petitioner corporation is accepted, it would result in restoring the illegal order of the Disciplinary Authority which merged into the order of the Appellate Authority. Further more, as seen from the award, having regard to the fact that only negligence was noticed and no motive was attributed for wrong entry being made, the Labour Court exercised discretion vested in it under Section 11-A of the Industrial Disputes Act. The Labour Court has assigned due reasons in support of its decision. This Court cannot interdict such order and set aside the same. This Court, in exercise of writ jurisdiction, cannot hold exercise of such discretionary power as illegal.

6. For the aforesaid reasons, writ petition merits no consideration. Accordingly, it is dismissed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:26.08.2016
TVK

HONOURABLE SRI JUSTICE P. NAVEEN RAO



WRIT PETITION No. 8342 of 2011

Date :26.8.2016