

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.14938 of 2003

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Date:05.01.2016

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Between:

Md. Sarwar

... Petitioner.

AND

The Industrial Tribunal- cum-
Labour Court, Godavarikhani
rep.by its Presiding Officer and
others.

...Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.14938 of 2003

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ORDER:

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This writ petition is filed challenging award in I.D.No.66/2000 dated 09-05-2001 on the file of Industrial Tribunal-cum-Labour Court, Godavarikhani so far as not granting continuity of service, attendant benefits, back wages and increments to the petitioner as illegal, arbitrary and unjust.

2. Petitioner was appointed as Driver in respondent- Corporation on 01-07-1989 and thereafter, he was transferred to fourth respondent depot. He fell sick suddenly on 31-07-1997 and developed stomach problem, therefore, he was

taken to the local hospital for treatment and he was treated there from 03-07-1997 to 03-08-1997. After recovery, the petitioner reported to his duty along with medical certificate and fitness certificate. A charge memo was issued to the petitioner on 04-08-1997 for the absence from 03-07-1997 and thereafter, a domestic enquiry was conducted and basing on that, he was found guilty of the charges levelled against him and the petitioner was removed from the service on

15-10-1997. The said removal order is challenged by the petitioner before the appellate authority-second respondent and the second respondent by its order dated 11-05-1998 directing reinstatement of petitioner, as fresh Driver Grade-II in the minimum scale of pay. Finally, it was challenged before the labour Court and the Industrial Tribunal-cum-labour Court, Godavarikhani by its order dated 09-05-2001 modified fresh reinstatement order into reinstatement into service by reducing his pay by two increments, which means withholding two increments by reducing his pay immediately, with direction to pay arrears within month from the date of publication of the award. Aggrieved by the same, present writ petition is filed.

3. Heard arguments.

4. Advocate for petitioner submitted that employee produced medical certificate showing the reason for his absence and for the treatment he was undergone in the hospital, but the labour Court has not at all considered that medical certificate and no finding is given whether it can be accepted or not.

He submitted that the Presiding Officer of the labour Court except recording that the charges against the employee are proved, no reasons are given as to how the charges are proved and evidence was not at all discussed. He submitted that this is a fit case to remit back the matter to the labour Court for fresh consideration.

5. On the other hand, Advocate for respondent-Corporation submitted that the labour Court has considered all the documents produced before it and that there are no grounds to interfere with the award passed by the labour Court.

6. I have perused the award of the labour Court in I.D.No.66/2000.

7. As rightly pointed out by Advocate for petitioner, labour Court did not discuss the evidence produced before it and only made a reference by describing the documentary evidence, relied on by parties before it. When the labour Court held that charges are proved against the employee, it is minimum expected to give reasons as to how the charges were proved and as to why the explanation and the medical certificate relied on by the employee cannot be accepted. On a scrutiny of the award, I am of the view that labour Court has not at all appreciated evidence and only just recorded finding and consequently passed the award.

8. On a close scrutiny of the entire material, I am of the view that it is a fit case to set aside the award and remit back the matter to the labour Court for fresh consideration for disposal in accordance with law.

9. Accordingly, Writ Petition is allowed, the award dated 09-05-2001 in I.D.No.66/2000 on the file of Industrial Tribunal-cum-Labour Court, Godavarikhani is set aside and the matter is remitted back to the labour Court for fresh consideration for disposal in accordance with law. Since the Industrial Dispute is of the year 2001, I feel that some time schedule has to be fixed therefore, the labour Court is to dispose of the matter as expeditiously as possible, preferably within a period of three months from the date of receipt of

the copy of this order. No costs.

9. As a sequel, miscellaneous petitions, if any, pending in this writ petition, shall stand disposed of.

JUSTICE S. RAVI KUMAR

Date:05.01.2015

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