

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.8378 of 2011

Date :26.8.2016

Between :

The Deputy Chief Traffic Manager,
APSRTC, Rajahmundry
East Godavari 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:



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ORAL ORDER:

Heard learned counsel for petitioner Sri S.V.Ramana and learned Government Pleader for Labour for first respondent.

2. The workman was Timmer in Gokavaram Depot of APSRTC. It appears from 10.1.1999 to 12.1.1999 employees of the Depot were under strike and on 12.1.1999 charge sheet as well as suspension order was served on the workman. The sum and substance of the allegations in the charge sheet was that workmen surrounded and misbehaved with the Depot Manager and wrongfully confined him. It appears from the award that in the preliminary enquiry no one gave statement against the workman. The Depot Manager filed a complaint with the police on the alleged incident but the complaint was silent about the workman's involvement. It appears that Head Security Guard also filed a report which alleges involvement of 39 workers who participated in surrounding the officer. The said report does not contain the name of the workman. The disciplinary proceedings resulted in imposing the punishment of reduction by one incremental stage for a period of one year, that has effect of postponing future increments. Challenging the said order, workman raised Industrial Dispute before the Industrial Tribunal cum Labour Court, Visakapatnam (for short the Labour Court). The Labour Court registered the same as I.D. No. 75 of 2005. On consideration of the evidence on record, Labour Court found that punishment imposed is disproportionate and excessive and in exercise of discretionary power vested under Section 11-A of the Industrial Disputes Act, modified the punishment to that of stoppage of one annual increment without cumulative effect. The award of the Labour Court to that extent is under challenge by the petitioner corporation.

3. Learned counsel for petitioner corporation would submit that as the charge leveled against the workman is proved in the disciplinary proceedings, it is for the employer /disciplinary authority to impose appropriate punishment. That in the instant case, charge leveled against the workman is 'surrounding of officer and illegally detaining him' which is a grave misconduct and would amount to gross indiscipline. Though such conduct invites major punishment, the Disciplinary Authority was considerate and imposed far less severe punishment. He would therefore submit that the Labour Court erred in interfering with the said punishment and modifying the same.

4. As seen from the award, neither in the initial complaint to the police nor in the Head Security Guard report, the name of the workman was found as one of the participants in surrounding and illegal detention of the Depot Manager. Only in the subsequent report of the Depot Manager, the name of the workman was implicated. It appears, at that time workman was Secretary of the Union representing the workmen, that may appears to be the provocation for implicating him, even though, initial reports do not suggest his involvement.

5. Having regard to the above factual background and having regard to the fact that maintenance of industrial peace is also an important issue, the Labour Court exercised its discretion and modified the punishment. In the facts of this case and having regard to the above background facts, it cannot be said that the decision of the Labour Court is perverse, warranting interference by this Court. Writ Petition is accordingly dismissed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:26.08.2016
TVK

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