

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1324 OF 2009

ORDER:

This writ petition is filed against the Award passed by the Industrial Tribunal-cum-Labour Court, Anantapur in ID.No.85 of 2005, dated 22.05.2007 wherein the Labour Court modified the order dated 10.02.2004 passed by the respondent Corporation in respect of deferment of increment for two years with cumulative effect to that of two years “without cumulative effect” with a condition that the petitioner is not entitled to claim arrears.

The case of the petitioner is that he was appointed as Mechanic in the respondent Corporation and while working in the Zonal Workshop with the 2nd respondent, he received a charge sheet dated 11.09.1996 containing the following charge;

“For having indulged in the business of money lending to others/employees under the name of your wife and your brother-in-law which constitutes misconduct under Regulation-18 read with Regulation-29 of the APSRTC Employees (Conduct) Regulations, 1963.”

Thereafter, the petitioner submitted a detailed explanation on 07.11.1996 and the enquiry officer by

conducting inquiry submitted his report holding that the charge leveled against the petitioner is proved. Thereafter, the respondent Corporation issued show cause notice to the petitioner for which the petitioner submitted explanation. Finally, the respondent Corporation passed order dated 25.06.1999 imposing the penalty of reduction of basic pay by three incremental stages for a period of two years which will have effect on his future increments. In the appeal filed by the petitioner, the 2nd respondent reduced the penalty to two years with cumulative effect vide order dated 10.02.2004. Thereafter, the review petition filed by the petitioner was rejected, as such, the petitioner raised the dispute before the Labour Court. The Labour Court, vide order dated 22.05.2007 in ID.No.85 of 2005, modified the order dated 10.02.2004 passed by the respondent Corporation in respect of deferment of increment for two years **with** cumulative effect to that of two years “without cumulative effect” with a condition that the petitioner is not entitled to claim arrears. Aggrieved by the same, present writ petition is filed.

Heard learned counsel for the petitioner and Sri A.Rama Rao, learned Standing Counsel for the respondent Corporation.

It is to be seen that the Labour Court at para-9 of the award held as follows;

“The respondent has enclosed Xerox copies of promissory notes, six in number and out of them only one promissory note was said to have been executed by the said Rabiya Bee in favour of one Soubhagya Lakshmi who is the wife of the petitioner by name V.Siddaiah. The other Promissory notes were not in the name of either of the two, but in the name of some other person who appears to have got executed but there is no evidence that it was a binami transaction and that the actual lender was the petitioner herein. There is also no acceptable evidence in support of the above stated defence of the petitioner that his wife and his brother were subscribers in the Chit and money lending business carried on by the said Rabiya Bee and however, under the given circumstances the above stated punishment of deferment of two increments with cumulative effect has to be modified one into without cumulative effect without there being entitling the petitioner for arrears.”

When the Labour Court found that there is no evidence that the petitioner was indulging in money lending business and also there is no evidence that benami transaction is taking place regarding the same, still imposed punishment on the petitioner. Having found that only one promissory note was executed in favour of petitioner's wife out of the six

Promissory Notes produced by the respondent, the labour Court would not have imposed punishment. Normally, this Court will not interfere with the award of Labour Court. But, in the present case the Labour Court itself found that there is no evidence in support of the charge leveled against the petitioner. In view of the same, the writ petition is allowed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

09.12.2016
t k.

A.RAJASHEKER REDDY, J

