

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.2249 OF 2009

ORDER:

This writ petition is filed against the award dated 19.10.2004 passed under ID.No.36/2002 on the file of Labour Court-III, Hyderabad, wherein the Labour Court allowed the ID filed by the 1st respondent herein in part directing the petitioner herein to reinstate the 1st respondent into service as conductor with continuity of service but without back wages and attendant benefits.

The case of the petitioner is that the 1st respondent was engaged as casual conductor on daily wage basis and was attached to Kodad depot. During the material time when the 1st respondent was conducting bus No.5379 on route Jagannadhapuram to Kodad on 30.06.1998, the checking officials of Regional Enforcement Squad, Nalgonda exercised a check at stage No.7/6 at 17.00 hrs. and detected that the 1st respondent committed serious cash and ticket irregularity. Thereafter, the petitioner was issued charge sheet with the following charges:

- i) For having collected the requisite fare of Rs.3/- from a passenger and issued ticket bearing No.170/481943 who boarded the bus at J.N.Puram and bound for Nandigudem ex-stages 7 to 5 and punched the tickets between stages 7 to 6 and between 4 to 5 with small punch marks and not accounted in the SR and closed the SR against Rs.3 dens. Column as "94" instead of "944"

which constitutes misconduct under Reg.28(vi) (a) of APSRTC Employees (Conduct) Regulations, 1963.

ii) For having collected the requisite fare of Rs.5/- from a passenger at the boarding place itself and issued ticket bearing No.139/139008 of Rs.5/- who boarded your bus at J.N.Puram and bound for Tellabella ex-stages 7 to 4/3 having punched the ticket between stages 2 to 3 instead of 3 with small punch marks and also not accounted in the SR, which constitutes misconduct under Reg.28(vi) (a) of APSRTC Employees (Conduct) Regulations, 1963.

The 1st respondent acknowledged the charge sheet and submitted his explanation. As the said explanation was found to be unsatisfactory, regular enquiry was ordered and the enquiry officer found that the charges leveled against the 1st respondent were proved. Thereafter, the Disciplinary authority issued show cause notice of removal on 19.12.1998 to the 1st respondent and since the 1st respondent failed to submit his explanation, the disciplinary authority passed final orders of termination of the 1st respondent from service by order dated 30.01.1999. The appeal preferred by the 1st respondent was also rejected by the Divisional Manager on 06.08.1999. In pursuance of the same, without availing the further remedy of review petition, the 1st respondent raised a dispute in ID.No.36/2002 which was allowed by the Labour Court in part directing the petitioner herein to reinstate the 1st respondent into service with continuity of service but

without back wages and attendant benefits. Aggrieved by the same, the respondent Corporation filed the present writ petition.

Learned counsel for the petitioner submits that though serious charges are leveled against the 1st respondent and that both disciplinary as well as appellate authority confirmed termination of 1st respondent, the Labour Court without any grounds simply interfered with the quantum of punishment and reinstated the 1st respondent into service.

The Labour Court by going through the evidence came to a conclusion that lesser punishment can be imposed on the 1st respondent as the petitioner joined the duty newly and has no malafide intention to cause loss to the Corporation. The Labour Court further held that for the mistake committed by the petitioner, punishment of removal is disproportionate and unwarranted and finally set aside the termination order and reinstated the petitioner into service with continuity of service but without back wages and attendant benefits.

This Court while admitting the writ petition on 10.02.2009 granted interim stay of the execution of award dated 19.10.2004 passed by the Labour Court with regard to the continuity of service.

A perusal of the impugned order goes to show that the Labour Court has considered the issue and came to a conclusion

that petitioner is entitled for reinstatement without back wages and attendant benefits. Learned counsel for the petitioner also stated that the 1st respondent has not challenged the impugned order. After appreciating evidence Labour Court came to a conclusion that the 1st respondent has not committed any act of misappropriation and the mistake is without any malafide intention and granted relief by exercising power under Section 11A of the Industrial Disputes Act. Petitioner is working, as stay granted by this Court is only in respect of continuity of service. Though notice is served, there is no appearance on behalf of 1st respondent. This Court by exercising power of judicial review under Article 226 of the Constitution of India, cannot re-appreciate the evidence and disturb findings of fact arrived by the Labour Court and also interfere with the discretion exercised by the Labour Court under Section 11 A of the Industrial Disputes Act. In view of the same, I am not inclined to interfere with the award passed by the Labour Court.

Accordingly, the writ petition is dismissed. No order as to costs.

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

A.RAJASHEKER REDDY, J

28.10.2016
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