

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 1700 of 2010

Order:

The petitioner was appointed as a Cleaner in the second respondent – Corporation in the year 1979 and was promoted as Helper in the year 1994. While so, on 09.03.2006, a charge sheet was issued with the following charges.

“1. For having collected Rs.20/- each from the drivers of Krishna Region depots who performed Medaram Jathara for writing their OT claim forms, which constitutes misconduct under Reg.28(x) of APSRTC Employees (Conduct) Reg.1963.

2. For having behaved unruly with the Superintendent (Mech.), Hanamkonda when he called you to enquiry about the complaint lodged by the drivers at 22-00 hours on 17.02.2006 by using high handed language before the other region drivers, due to which the image of the depot was tarnished before the other region employees, which constitutes misconduct under Reg.28(xxi) of APSRTC Employees (Conduct) Reg.1963.

3. For having exhibited notices stating that Rs.10/- will be charged for writing OT claim forms to the employees who performed Inavole Jathara duties and “stopped writing of OT claim forms and requested the employees of Hanamkonda depot to prepare their own OT claim forms from Jan/Feb 2006 onwards” in the traffic and maintenance sections notice boards respectively duly endorsing your name unauthorisedly, which is a misconduct under Reg.28(xvii) of APSRTC Employees (Conduct) Reg.1963.”

2. The petitioner submitted his explanation on 13.03.2006 denying the allegations. Since the second respondent was not satisfied with the explanation, the petitioner was placed under suspension on 04.05.2006. An enquiry was conducted and a report was submitted holding that the charges levelled against the petitioner were proved. He was removed from service, by an order, dated 04.11.2006, of the second respondent. Against the said order of removal, he preferred an appeal to the appellate authority, who rejected the same. The

petitioner filed ID No.54 of 2007 before the first respondent raising several grounds. The Labour Court considered the entire material on record and passed an award on 21.11.2008 setting aside the order of removal dated 04.11.2006 and directing the second respondent - Corporation to reinstate the petitioner as a Helper afresh in the present scale of pay, but without continuity of service, back wages and other attendant benefits. Challenging the same, the present Writ Petition was filed.

3. A perusal of the charges show that they relate to the collection of some amount from the drivers for writing OT claim forms and the available material on record indicated that the practice of collection of amount developed because of scarcity of stationery. The petitioner himself admitted the collection of the amount for the last 10 years and the drivers were also willingly paying the said amount. It appears that the charge sheet was issued only when some altercation took place in the Hanmakonda depot on 17.02.2006. The Labour Court noticed that the practice adopted by the petitioner was not in accordance with the rules and the finding recorded by the Enquiry Officer was upheld. However, the Labour Court also noticed that the service record of the petitioner was comparatively clean and he was also appreciated once for his good working habits. Taking that into consideration, the removal order was set aside and he was asked to be reinstated by the second respondent and, accordingly, the petitioner was reinstated. The portion of the award of the Labour Court denying him continuity of service, back wages and other attendant benefits cannot be interfered with, but the petitioner cannot be denied of the benefit of past service rendered by him in the Corporation in view of the fact of comparatively clean record. Though the Labour Court directed the second respondent – Corporation to reinstate the petitioner as Helper afresh in the present scale of pay, it would virtually amount to restoring the post of Helper at the beginning of the scale and as a consequence he

should not have been deprived of the past service rendered by him in the Corporation. This Court finds that denial of such relief for the retirement benefits of the petitioner would be gross injustice.

4. Accordingly, the Writ Petition is disposed of modifying the award passed by the Labour Court, dated 21.11.2008, by directing the second respondent – Corporation to reckon the past service rendered by the petitioner till the date of his removal on 04.11.2006 for the purpose of calculating retiral benefits and in all other respects the award of the Labour Court shall remain. There shall be no order as to costs.

5. As a sequel thereto, the miscellaneous applications, if any, pending in this Writ Petition shall stand closed.

A.
Date: 06.04.2016
Nsr

RAMALINGESWARA RAO, J