

THE HONB'E SRI JUSTICE CHALLA KONDANDA RAM

WRIT PETITION No.2346 OF 2009

ORDER:

The writ petition is filed challenging the award dated 30.06.2008, passed by the 4th respondent-Labour Court in I.D.No.174 of 2007.

It is the case of the petitioner that she was appointed as a Conductor in the year 1998 and while the petitioner was working as Conductor at Atmakur Depot, she was removed from service on the allegation of having got married one Sri M. Osman Ali, E.97689 Driver on 13.04.2004 without ascertaining his status properly as the driver had a wife living. Aggrieved thereby, the petitioner filed an I.D.No.174 of 2007 before the 4th respondent-Labour Court contending that the petitioner was removed from service without there being any enquiry basing on the representation submitted by the petitioner's father and based on the complaints of the Depot Manager and one Srisailam. It was also contended before the Labour Court that the W.P.No.26720 of 2006 filed by the said M. Osman Ali was allowed by this Court by an order dated 28.02.2008 setting aside the removal order passed against the said person. The said Osman Ali is none other than the person who had married the petitioner by playing fraud on the petitioner without informing about his previous marriage.

Heard the learned counsel for the petitioner, learned standing counsel for A.P.S.R.T.C and the learned Government Pleader for Labour (A.P).

As can be seen from the material on record that the Labour Court interfered with the proceedings of the imposition of the punishment of removal on two grounds. One is on the ground that by

taking into consideration of the interference of this Court with respect to the removal of the said M. Osman Ali who married the petitioner by deceiving the petitioner. The second ground on which the Labour Court interfered with the order of the disciplinary authority on the ground that there was no enquiry as such was conducted and the imposition of the punishment was based only on certain statements and the persons who had made the statements were not examined. While partially granting the relief, the Labour Court denied the back wages and attendant benefits to the petitioner.

The only point that is being urged before this Court is that whether the Labour Court was justified in denying the back wages and attendant benefits.

In the facts of the present case, it cannot be said that totally the disciplinary authority imposed the punishment of removal by giving the conclusion that the charge having been proved cannot be found fault for the reason that the factum of petitioner married with the said M. Osman Ali has been admitted by the petitioner and further the factum of the said Ali having already been married is also an admitted fact. Inasmuch as the basic ingredients that the petitioner is guilty of committing a bigamy has been admitted which really does not require to be proved by any independent evidence. In that view of the matter, the non examination of the persons viz., petitioner's father who made a representation about the said Ali and the petitioner and the complaint of the Depot Manager who had given a complaint apart from the complaint of one Srisailaim on 25.6.2004 by itself does not alter the case in favour of the petitioner. However, not considering the case of the petitioner both the disciplinary authority as well as the Labour Court failed to consider the role played by the said Ali the

person who married the petitioner by suppressing the fact of his already being married. In that context, the plea of the petitioner while admitting that she got married to the said Ali without being aware of his previous marriage was not considered. In that context, the very charge is that the petitioner got married to the said Ali without ascertaining properly about his status itself is an indication of the fact that the petitioner was lured into the marriage by the said Ali. In those circumstances, the disciplinary authority ought to have taken a lenient view while awarding the punishment. In that view of the matter taking into consideration of the time lapsed, the punishment as awarded and as modified shall be read as:

“without any back wages but with attendant benefits notionally for the purpose of promotion and increments from the date of award.”

However, the petitioner shall not be entitled to any arrears up to the date of award.

With the above observations, the writ petition is partly allowed. No order as to costs.

Miscellaneous petitions, if any pending in this writ petition shall stand closed.

CHALL KODANDA RAM,J

Date:07.09.2016
Gk.

THE HONB'E SRI JUSTICE CHALLA KONDANDA RAM



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