

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.3702 of 2003

ORDER:

This writ petition is filed to give a direction more particularly one in the nature of Certiorari by calling the records relating to I.D.No.32 of 2002 dated 13.08.2002 on the file of Industrial Tribunal-cum-Labour Court, Godavarikhani, and quash the same to the extent of restoring two increments with effect from the date of publication of award, which is highly arbitrary, bad and illegal.

2. Petitioner herein while working as driver in respondent Corporation, he was involved in a criminal case in Crime No.26 of 1996 of Sirpur Town Police Station for the offence under Sections 337 and 304-A IPC as A.2 along with bus conductor as A.1 and the Department has issued a charge memo on 26.06.1996 framing two charges and on considering the explanation of petitioner herein dated 04.07.1996, the department passed an order giving punishment of withholding two annual increments with cumulative effect. Petitioner herein challenged the said punishment order before appellate Authority and his appeal was rejected on 07.04.1997. Thereafter, he again preferred appeal to the Regional Manager on 26.06.1997, which was also rejected, thereafter he approached Assistant Commissioner of Labour seeking intervention in the matter and Assistant Commissioner of Labour referred the dispute to the Labour Court and the Labour Court registered it I.D.No.32 of 2002 and on a consideration of material on record, Labour Court while holding that there is no basis for treating the charges as proved against writ petitioner gave a clean chit but ordered that petitioner is not entitled to the monetary benefit of two increments till publication of award. Aggrieved by that direction, present writ petition is filed.

3. Heard arguments.

4. Advocate for writ petitioner submitted police filed charge sheet

against bus conductor and bus driver and the criminal Court found the bus conductor guilty for the offence and acquitted petitioner herein in spite of that the Department proceeded against petitioner and imposed punishment of withholding two annual increments with cumulative effect. He submitted the bus conductor, who was found guilty was imposed with a punishment of withholding one increment with cumulative effect and Labour Court considering these aspects held that the charges against petitioner herein are not proved and punishment withholding two increments with cumulative effect is not justified. He submitted while recording such a finding, Labour Court ordered that petitioner is not entitled for the monetary benefit of these two increments till date of publication of the award on the ground that petitioner approached the Labour Court belatedly. He submitted that the direction of Labour Court denying monetary benefit to petitioner is arbitrary, illegal and not in accordance with law.

5. On the other hand, advocate for respondent No.1 submitted that the Labour Court rightly denied monetary benefit to petitioner as there are laches on the part of petitioner in not approaching the Assistant Commissioner of Labour for reconciliation and to refer the matter to Labour Court and the orders of Labour Court are perfectly valid and justified.

6. Now the point that would arise for my consideration is

Whether the Labour Court has right in refusing monetary benefit of two annual increments with cumulative effect from the date of punishment till publication of the award?

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POINT :

7. There is no dispute that petitioner was working as driver in the respondent Corporation. As seen from the record, police filed a case against petitioner and bus conductor for an offence under Sections 337 and 304-A IPC and the criminal case ended in acquittal insofar as petitioner is concerned. Respondent Corporation issued a charge memo in respect of the same incident and petitioner herein submitted

his explanation denying the charges and Department without ordering for any enquiry imposed punishment of withholding two increments with cumulative effect. On reference to Labour Court, the punishment was found as incorrect and Labour Court ordered for release of two increments but imposed restriction. Punishment of stoppage of increments was given on 25.09.1996 and the award is passed on 13.08.2002. Now, according to the direction of the Labour Court, petitioner herein is not entitled for the monetary benefit of these two increments from 25.09.1996 to 13.08.2002. Learned Presiding Officer of the Labour Court has clearly recorded a finding that the charge against petitioner is not proved and punishment of withholding two increments with cumulative effect is not justified. When such a clear finding is recorded on the basis of facts, as rightly pointed out by advocate for petitioner, the direction of the Labour Court to implement that finding only from the publication of the award and directing employer to withhold monetary benefit from the date of punishment till date of publication of award is unwarranted. As seen from the material the bus conductor, who was also charged in the criminal case along with petitioner, was given a punishment of withholding one increment with cumulative effect. When a person who was found guilty of the charge was imposed punishment of withholding one increment and a person who was found not guilty is imposed a punishment of withholding two increments for a specified period is definitely arbitrary and discriminatory, therefore, I am of the view that the direction of Labour Court holding that petitioner is not entitled for the monetary benefit of two increments till publication of the award is incorrect and highly unwarranted, therefore, that direction is liable to be set aside.

8. For these reasons, writ petition is allowed and the impugned direction of the Labour Court holding that petitioner is not entitled for the monetary benefit of two increments from 25.09.1996 to 13.08.2002 is set aside.

9. Miscellaneous Petitions, if any, shall stand dismissed. No costs.

S. RAVI KUMAR, J

8th January 2016.

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