

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Appeal No.46 of 2016

JUDGMENT: *(per Hon'ble Sri Justice V. Ramasubramanian)*

A driver of the Andhra Pradesh State Road Transport Corporation (for short 'APSRTC'), whose writ petition assailing the award of the Labour Court was partly allowed, has come up with the above writ appeal challenging a portion of the order that denied certain benefits to him.

2. Heard Sri N.V.L.Narasimha Rao, learned counsel for the appellant, learned Government Pleader for Labour for the 1st respondent and Sri N.Vasudeva Reddy, learned standing counsel for the APSRTC.

3. The appellant was appointed as a driver in the respondent-Corporation on 04.12.1984. The vehicle, he was called upon to drive, was involved in a road accident on 14.02.1992. He was prosecuted before the criminal court and disciplinary proceedings were also simultaneously initiated. Since the witness did not turn up before the criminal court, the criminal case ended in acquittal.

4. In the departmental proceedings, the appellant was found guilty of the charges and he was imposed the penalty of dismissal from service by order dated 15.07.1992. However, on a departmental appeal, the appellant was directed to be reinstated by the Appellate Authority by order dated 17.08.1992. But this reinstatement was technically an order of reappointment and not reinstatement. In other words, the appellant was taken as a fresh appointee by the Appellate Authority's order dated 17.08.1992.

5. Challenging the penalty so imposed, the appellant raised

industrial dispute through his Trade Union in I.D.No.5 of 2001. The Industrial Tribunal, Hyderabad by an award dated 30.06.2004, concurred with the finding of guilt recorded by the Appellate Authority, but held that the punishment of wiping out of the entire past record of service from 1984 to 1992 was unjustified. Consequently, the Tribunal passed an award holding that the appellant would be entitled to all the benefits except monetary benefits from 1984, the date of his initial appointment, throughout the service.

6. Not satisfied with the award of the Labour Court, the appellant filed a writ petition, in WP No.25898 of 2005, which was partly allowed by a learned single Judge of this court by an order dated 06.10.2015, holding that the appellant would be entitled to continuity of service from the date of original appointment for the purpose of retirement benefits and the pensionary benefits. He was also held entitled to notional attendant benefits, such as increments, but the monetary benefits arising out of the difference between the pay that he would have otherwise drawn, and the pay that he actually drew as a fresh recruit was denied to the appellant. It is against this portion of the order of the learned single Judge, the appellant has come up before us.

7. We find absolutely no grounds to interfere with the order of the learned single Judge. The finding of guilt recorded by the original authority was not upset by the Appellate Authority but he reduced the punishment to one of reappointment as a fresh recruit. Recording of guilt by the Appellate Authority was up-held by the Industrial Tribunal and the Industrial Tribunal exercised its discretion under Section 11-A, and reduced the penalty further. Therefore, the award of the Industrial Tribunal, in strict sense, did not even call for interference under Article 226 of the Constitution of India. However, the learned single Judge took a lenient view and granted other reliefs. The appellant in simple terms was dismissed from service by the Original Authority. The

Appellate Authority granted one relief, the Industrial Tribunal improved it and the learned single Judge improved it further. The appellant is, therefore, not entitled for any further relief.

8. Hence, the writ appeal is dismissed. There shall be no order as to costs. Pending miscellaneous applications if any, in this writ appeal shall stand closed.

V.RAMASUBRAMANIAN, J

A. SHANKAR NARAYANA, J

Date: 09.06.2016
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