

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.19663 of 2001

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Date: 18.02.2016

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Between:

N.Bandari Narayana, S/o Satyanarayana, Aged about
50 years, R/o. Door No. 12-5-5/1, Side by Veenatam
Krishna Murthy, Prakashnagar, Narasaraopet,
Guntur District.

.....Petitioner

and

The Hon'ble Labour Court, Guntur, rep.by its
Presiding Officer and another.

.....Respondents

The Court made the following:

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ORDER:

Petitioner was served as Conductor of 2nd respondent-corporation. Disciplinary proceedings were initiated against the petitioner vide charge sheet dated 26.03.1991 containing two charges. In charge no.1, it is alleged that petitioner was holding excess amount of Rs.252.25 Ps. towards Bus cash at the time of the check and the substance of the 2nd charge is petitioner was holding two ticket blocks of Rs.1.50 Ps. and Rs.1.75 Ps. Denomination, respectively, unauthorizedly without entering in the way-bill and not accounted in the S.R. The disciplinary proceedings resulted in imposing punishment of removal from service vide orders of the Disciplinary Authority dated 07.05.1992. Challenging the order of removal, petitioner raised industrial dispute before the Labour Court at Guntur in Industrial Dispute No.41 of 1993. In the award, the Labour Court while upholding the findings recorded by the disciplinary authority on two charges levelled against the petitioner held that the punishment imposed is excessive and disproportionate to the delinquency alleged and proved against the petitioner, substituted the punishment with that of reinstatement of the petitioner as a fresh candidate. It is further ordered that petitioner is not entitled to continuity of service and back-wages. Petitioner challenges the said award of the Labour Court to the extent of the denial of back-wages and continuity of service.

2. Heard learned counsel for petitioner and learned standing counsel for 2nd respondent.

3. At the outset, learned standing counsel fairly submits that the award of the Labour Court is not challenged and the award is complied

with. Learned counsel for petitioner submits that petitioner was inducted into service and subsequently retired from service after attaining the age of superannuation.

4. The question that arises for consideration is whether the Labour Court erred in not granting back-wages and continuity of the service?

5. Learned counsel for petitioner submits that petitioner rendered approximately 13 years of service before his services were terminated and after his reinstatement, he had short period of service before he attained the age of superannuation. There was a gap of 8 years between removal from service and award passed by the Labour Court. On account of denial of back-wages and continuity of service by the Labour Court, long service rendered by him is not counted for the purpose of determination of retirement benefits and only paltry amount was granted to him, causing grave prejudice and hardship to the petitioner. Learned counsel submits that Labour Court having coming to the conclusion that there was no proof that petitioner has brought into the Bus the unauthorized ticket blocks and used them with an intention to defraud the Corporation and, therefore, held that punishment of removal is excessive, erred in not granting the continuity of service.

6. Learned standing counsel submits that the Labour Court held that charges were proved and directed the appointment of petitioner as a fresh candidate and, therefore, the question of granting continuity of service and back-wages does not arise.

7. Two charges levelled against the petitioner, as already noted, relate to cash and ticket irregularities. The Disciplinary Authority alleged that petitioner was carrying cash of Rs.252.25 Ps which was not disclosed by him as required and was also carrying unauthorized ticket blocks. The Disciplinary Authority held that petitioner was guilty of using the unauthorized tickets for personal gain and carrying cash

without disclosing them. The Labour Court upheld the disciplinary action against the petitioner. The only issue considered in petitioner favour was the quantum punishment. The Labour Court having found that there was no material on record to show that petitioner intended to defraud the corporation by selling the tickets from the illegal ticket blocks, held that the punishment is excessive and substituted the punishment. Merely because the punishment was substituted by the Labour Court, an employee cannot claim continuity of service and back-wages as a matter of course, more so when charges are proved. In the instant case, it cannot be said that employer has acted illegally in taking the disciplinary action and imposing punishment.

8. Granting of back-wages and continuing of service is the discretion of the Labour Court in the given facts of a case. In the instant case, Labour Court has exercised its discretion to deny the continuity of the service and back-wages having regard to the nature of the allegations. In the facts of this case, it cannot be said that Labour Court grossly erred in denying continuity of service and back-wages. I do not see any error in the decision of the Labour Court warranting interference by this Court.

9. The Writ Petition is accordingly dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 18.02.2016

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