

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.27794 OF 2005

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking issuance of a writ of Certiorari for quashing the Award dated 24.03.2003 passed in I.D.No.72 of 2000 by the Industrial Tribunal-cum-Labour Court, Anantapur, insofar as charge Nos.2 and 3, which are held to be proved by the Tribunal.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Labour.

3. The facts in issue are as follows:

The petitioner joined the respondent Corporation as driver on 08.11.1984. While the petitioner was working at Nandyal Depot, a case in crime No.145 of 1994 came to be registered against him for an offence punishable under Section 34 of the A.P. Excise Act alleging that the petitioner was selling arrack in his house. In connection with said crime, petitioner was arrested on 6.7.1994 and then released on bail on 12.07.1994. Thereafter, the respondent Corporation placed the petitioner under suspension and a charge sheet was also issued alleging following charges:

- 1) For having involved in selling of illicit arrack near your house bearing No.3/540, Sanjeevanagar, Nandyal which is against to A.P. Excise Act on 10.07.1994 for which you were arrested at 19.00 hrs., on 10.07.1994 and registered a case against you vide crime No.145/94 U/s 34 (A) of A.P. Excise Act by Police Authorities of Nandyal which constitutes misconduct in terms of clause (xv) of Reg. 28 of APSRTC Employees (Conduct) Reg. 1963”

- 2) For having concealed the fact of arrest in connection with selling of illicit arrack by you on 10.7.1994 which constitutes misconduct in terms of clause (xv) of Reg.26 of APSRTC Employees (Conduct) Reg. 1963
- 3) For having absented to your chartered duty 12.30 hrs. Kotakonda on 11.07.1994 resulting which was much inconvenience caused to the traffic officials in arranging another driver to perform the service, which constitutes misconduct in terms of clause (xv) of Reg. 28 of APSRTC Employees (Conduct) Reg. 1963.”

3.1 Pursuant thereto, the petitioner submitted his explanation. Being not satisfied with the explanation submitted by the petitioner, an enquiry was ordered. The enquiry officer submitted a report dated 25.03.1995 holding the charges as proved. Consequently, the petitioner was removed from service vide order dated 18.05.1995. Aggrieved by the same, petitioner preferred an appeal before the Divisional Manager on 06.12.1997, which was rejected vide order dated 02.03.1998. Thereafter, petitioner filed a review application and the same was also rejected on 30.10.1998. Aggrieved by the same, petitioner raised a dispute in I.D.No.72 of 2000 before the Industrial Tribunal-cum-Labour Court, Anantapur, wherein the impugned award came to be passed holding that the punishment of removal from service is disproportionate and consequently ordered reinstatement with 50% of backwages during the period from 06.12.1997 to 30.11.1998 and again from 01.05.2000 till the date of realization. The said order is under challenge in this writ petition.

4. The learned counsel for the petitioner mainly challenges the impugned award to the extent of holding charge Nos.2 and 3 as proved. He further contends that the Labour Court ought to have

awarded full backwages instead of awarding only 50% of backwages.

5. Learned Standing Counsel for respondent-Corporation opposed the writ petition contending that the Tribunal took a lenient view while imposing the punishment and the impugned award warrants no interferences of this Court.

6. As seen from the impugned Award, the Tribunal observed that merely because the Police registered a crime against the petitioner, it cannot be stated that the petitioner was guilty of the offence. Hence, the Tribunal held that charge No.1 was not proved against the petitioner. As regards charge Nos.2 and 3, the Tribunal, while appreciating the evidence of one Sri S.H.Peera, Controller, held that the brother of the petitioner submitted a medical certificate showing sickness of the petitioner. Thus, it is clear that the petitioner did not inform the respondent authorities that he was arrested and hence the Tribunal held that charge Nos.2 and 3 are proved against the petitioner.

7. As seen from the material on record, it is clear that on the alleged date of absence of the petitioner from the duty, the brother of the petitioner submitted a medical certificate stating that the petitioner was sick. Thus, it is crystal clear that the petitioner has suppressed the fact of his arrest before the respondent authorities and without informing the correct reason for his absence, the petitioner has submitted a sick certificate through his brother. Hence, as rightly held by the Tribunal, the petitioner is guilty of charge Nos.2 and 3. Insofar as punishment concerned, the

Tribunal set aside the punishment of removal from service imposed on the petitioner by the respondent authorities and directed the respondents to reinstate the petitioner into service with continuity of service apart from awarding 50% back wages. Thus, I see no illegality or irregularity committed by the Tribunal and the impugned award warrants no interference of this Court.

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

Date: 21.10.2016
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C. PRAVEEN KUMAR, J

