

HON'BLE SMT JUSTICE ANIS

W.P. No. 25065 of 2003

ORDER:

This Writ Petition is filed challenging the order passed on 05.09.2001 in I.D. No.23 of 1998 by the Chairman, Industrial Tribunal-cum-Labour Court, Anantapur wherein and whereby the Tribunal directed the respondents to issue fresh appointment to the petitioner and further directed to defer two annual increments with cumulative effect.

2) Learned counsel for the petitioner argued that the petitioner worked as a Mechanic prior to his removal and after considering the record, the Tribunal held that the respondent established all the charges leveled against the petitioner but however with a view to provide an opportunity to mend himself to be a good worker, the Tribunal took a lenient view and accordingly passed the award directing fresh appointment of the petitioner but directed to defer two annual increments.

3) Learned counsel also argued that as the petitioner was given a fresh appointment, imposing further punishment is unwarranted and the petitioner is also not claiming any backwages and continuity of service and relied on the case law passed by this Court in W.P. No.4853 of 2006 dated 31.10.2013 and also in W.P. No.3566 of 2003 dated 04.08.2009. At para Nos.4 & 5 of W.P. No.3566 of 2003, it was held as under:

“4. When once the 1st respondent-Industrial Tribunal ordered reinstatement of the petitioner as conductor afresh, in my considered view, it ought not to have further ordered for stoppage of four annual increments with cumulative effect. The petitioner had lost his seniority, attendant benefits, backwages and the only benefit he derived from the award of the Tribunal is his reinstatement as conductor afresh.

5. Keeping in view of the fact that the charges levelled against the petitioner are trivial in nature, ordering stoppage of four annual increments with cumulative effect, in my

considered view, would be disproportionate to the misconduct alleged against the petitioner. Hence the award of the Tribunal is liable to be set-aside to that extent.”

4) On the other hand, the learned counsel for the respondent Corporation argued that the petitioner service record shows that he was suspended for seven times for disruption, committing theft and misconduct. Thus, he was removed from service. Therefore, the Industrial Tribunal rightly passed the impugned order and the petitioner is in fact not entitled to reinstatement and prayed to dismiss the writ petition.

5) A perusal of the record shows that there is no dispute that the petitioner was worked as a Mechanic prior to his removal from service in APSRTC, Piler Depot. Aggrieved by the termination order of the department, he filed I.D No.23 of 1998 before the Tribunal, Anantapur. The said Tribunal passed the impugned award on 05.09.2001 setting aside the termination order and directed the respondent to issue fresh appointment to the petitioner and also directed to defer two annual increments with cumulative effect.

6) The contention of the learned counsel for the petitioner that when the respondent gave a fresh appointment to the petitioner, there will not be continuity of service and deferring two annual increments is not permissible. Further, the petitioner is also not seeking any continuity of service or backwages and relied upon the case law referred supra.

7) A perusal of the case laws laid down by this Court referred supra, it is held that once the Tribunal ordered fresh reinstatement of the workmen, it ought not to have further ordered for stoppage of four annual increments with cumulative effect.

8) Thus, in view of the same, the respondent Corporation is not entitled to defer two annual increments of the petitioner with cumulative effect and the petitioner had already lost his continuity of

service and backwages. Therefore, the impugned award is liable to be set aside to that extent.

9) The award dated 05.09.2011 passed in I.D. No.23 of 1998 is accordingly set aside to the extent of direction of the Tribunal with regard to the stoppage of two annual increments with cumulative effect.

10) The writ petition is allowed to that extent indicated above. No order as to costs.

11) Miscellaneous Petitions pending, if any, in this writ petition shall stand dismissed.

ANIS, J

Date: 18.02.2016

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