

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.742 of 2010

ORDER:

Heard the learned Standing Counsel for petitioner Corporation, the learned counsel for first respondent and the learned Government Pleader for Labour (TS) for second respondent.

2. The first respondent was appointed as a Cleaner on 21.07.1989 in the petitioner Corporation and his services were regularized with effect from 21.07.1989. Subsequently he was promoted as a Tyre Mechanic Grade-II with effect from 05.06.1991. While so, on 10.10.01.2002 at about 08.05 hours, the first respondent was caught by the security head guard when he was carrying away a new tube flap by hiding under his dress, which was stolen from the Tyre Section. Based on the report of the security head guard, the first respondent was placed under suspension, by order dated 11.01.2002. Subsequently, a charge memo was issued and an enquiry was ordered. The Enquiry Officer conducted enquiry and submitted his report. The first respondent submitted his objections to the enquiry report on 08.04.2002. Thereafter, a show cause notice dated 08.04.2002 for removal of the first respondent from service was issued, for which, the first respondent submitted his explanation on 16.04.2002. The first respondent sought certain documents which were already supplied by the disciplinary authority. In view of the same, the disciplinary authority issued proceedings, dated 24.04.2002, removing the first respondent from service. Challenging the same, the first respondent filed I.D.No.17 of 2005 before the second respondent. The second respondent took into consideration the value of the article as Rs.60/- and opined that the punishment imposed was disproportionate to the charge and accordingly passed the Award on 08.02.2008 setting aside the order of the disciplinary authority dated 24.04.2002 and directing the petitioner Corporation to reinstate the first respondent into service without backwages. It was also observed that

the continuity of service would be only for the purpose of pensionary/retirement benefits and not for other benefits like increments, promotions, etc. Challenging the said Award, the present writ petition is filed.

3. In the present writ petition, there was no interim order suspending the said Award, as a result of which, the first respondent was taken into service. It is submitted by both the learned counsel that the first respondent attained superannuation.

4. In view of retirement of the first respondent and also in view of the fact of second respondent passing an Award in exercise of its discretionary jurisdiction ordering for continuance of service only for the purpose of

pensionary/retirement benefits and not for other benefits like increments, promotions, etc., *prima facie*, the discretionary Award dated 08.02.2008 passed by the second respondent does not call for any interference.

5. Hence, the writ petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 06.04.2016

TJMR