

THE HONB'E SRI JUSTICE CHALLA KONDANDA RAM

WRIT PETITION No.2257 OF 2009

ORDER:

The writ petition is filed challenging the award dated 14.03.2008, passed by the 2nd respondent-Labour Court-II.

It is the case of the petitioner-Corporation that the first respondent-workman was engaged as daily wage driver in the petitioner-Corporation on 25.03.1988 and later his services were regularized on 01.07.1988. It is stated that earlier once the 1st respondent-workman was removed from service and his annual increments were also deferred for five times for his misconduct. The 1st respondent-workman had humiliated the Traffic Supervisor in the presence of other staff members for not granting the leave and consequently the Traffic Supervisor gave a written complaint to the concerned Depot Manager mentioning the names of the employees who have witnessed the behaviour of the 1st respondent-workman. Basing on the complaint of the Traffic Supervisor, 1st respondent-workman was suspended and issued a charge sheet on 25.06.2004 with the following charge:

“For having abused and used unparliamentarily and filthy language against the on duty TI-III/GPP depot on 20.06.2004 at about 11.30 hours in the traffic section by saying “Lanja Koduka Leave Eyyava, Nee Anthu Chustha, Nee Jaathi Pukula Modda and also tried to manhandle, which constitutes misconduct under Reg.28(viii) and (xviii) of APSRTC Employees (Conduct) Regulation, 1963.”

Thereafter an Enquiry Officer was appointed and the Enquiry Officer conducted a preliminary enquiry against the 1st respondent-workman and submitted his report to the disciplinary authority holding that the charges leveled against the 1st respondent-workman

proved. Later, the disciplinary authority called for objections on the enquiry report from the 1st respondent-workman through a letter dated 24.1.2005 and the 1st respondent-workman had submitted his objections on the enquiry report on 11.2.2005. The disciplinary authority after perusal of the enquiry report came to a provisional conclusion that the charges leveled against the 1st respondent-workman stood proved for which a penalty of removal from service is fit and proper to be imposed upon the 1st respondent-workman and as such issued a show cause notice of removal on 17.2.2005. The 1st respondent-workman having received the show-cause notice, failed to submit any explanation to the show cause notice and ultimately the disciplinary authority had passed final order dated 14.03.2005 removing the 1st respondent-workman from service. The 1st respondent-workman aggrieved with the removal order without preferring any appeal to the Divisional Manager and without availing further remedy of review, straightaway raised a dispute in I.D.No.59 of 2005 before the Labour Court-II and the Labour Court allowed the said I.D in part directing to reinstate the 1st respondent-workman into service with continuity of service but without back wages. Aggrieved with the Award of the Labour Court, the petitioner-Corporation filed the present writ petition.

Heard the learned standing counsel for the petitioner-Corporation and the learned Government Pleader for Labour (T.S.).

The learned counsel for the petitioner-Corporation submits that the reason given by the Labour Court is totally erroneous. To support the contention, the learned counsel for the petitioner-Corporation had placed reliance on the enquiry report wherein the fact of apart from the evidence of the 1st respondent, the evidences of five witnesses

were taken into consideration. The learned counsel for the petitioner further submits that inasmuch as the Tribunal went on only wrong premises, the matter requires to be interfered and the case may be remanded to the Labour Court for fresh consideration.

On the other hand, the learned counsel appearing on behalf of the 1st respondent-workman submits that while admitting the Labour Court had recorded a wrong finding supports the conclusions arrived at by the Labour Court as sustainable and pressed for dismissal of the writ petition.

Having considered the respective submissions, this Court carefully perused the enquiry report which is placed on record. A careful reading of the enquiry report discloses that the basis on which the Labour Court had allowed the I.D is not correct as contended by the learned counsel for the 1st respondent. As a matter of fact, the enquiry report discloses that the examination of witnesses viz., 1) Y.V. Rao, 2) M.A. Jabbar, 3) Md. Hussain and 4) Syed Ghouse in the domestic enquiry. In normal circumstances, the writ petition would have to be allowed on that ground alone. However, while the Labour Court had erred in recording that there was no domestic enquiry conducted and the disciplinary authority placed reliance only on the enquiry report, a perusal of the preliminary enquiry report disclose that as a matter of fact five witnesses were examined and none of the witnesses supported the case of the Corporation. In the result, there being no evidence to bring home the charge, conclusion drawn by the enquiry officer that the charge memo against the workman is proved, is a perverse finding.

In the result, though the Labour Court had interfered with the punishment awarded by the disciplinary authority cannot be

sustained on the grounds arrived by the Labour Court, on examination of the material, the award can be sustained as the disciplinary authority's order was based on an enquiry report without there being any evidence. In that view of the matter, the writ petition does not deserve any consideration.

Accordingly, the writ petition is dismissed. No order as to costs.

Miscellaneous petitions, if any pending in this writ petition shall stand closed.

CHALL KODANDA RAM,J.

Date:07.09.2016,
Gk.



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