

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.12316 OF 2011

Dated:06.12.2016

Between:

A.N. Rao, s/o. R. Bheemaiah,
Aged about 54 years, E.No.302255,
Conductor, R/o. Sonala,
Boath Mandal, Adilabad District

.. Petitioner

And

The APSRTC, rep., by its Vice
Chairman and Managing Director,
Musheerabad, Hyderabad and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

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ORDER:

Heard learned counsel for the petitioner, Sri N. Vasudeva Reddy, learned Standing Counsel for the respondent – Corporation, and learned Government Pleader for Labour.

2. The petitioner was appointed as a Conductor in the respondent - Corporation on 13.02.1985, on daily wage basis, and thereafter, his services were regularized. Alleging that he issued re-used ticket, while conducting the bus from Armur to Jalalpur on 28.01.1999, and such action would amount to misappropriation of Corporation funds, disciplinary proceedings were initiated against the petitioner. The disciplinary action resulted in imposing punishment of removal from service by order, dated 27.12.1999. On rejection of his appeal and revision, the petitioner raised I.D.No.149 of 2007 before the Labour Court – II, Hyderabad. The Labour Court, while upholding the findings recorded by the Enquiry Officer on the allegation of misappropriation of amount, interfered with the punishment of removal from service, holding punishment imposed as disproportionate. The Labour Court directed reinstatement of the petitioner without back wages and continuity of service. Challenging the same, the petitioner filed this Writ Petition.

3. To complete the narration of facts, it is to be noted that as a sequence to the Award passed by the Labour Court, by

order dated 30.06.2010, the petitioner was reinstated and retired from service on attaining the age of superannuation.

4. Learned counsel for the petitioner submits that the disciplinary proceedings were initiated against the petitioner by the very same authority i.e. the Depot Manager, who was part of the inspection team, by issuing charge sheet, and therefore, the proceedings are vitiated on that ground. He further submits that the petitioner was denied the opportunity of cross-examining the Depot Manager during the course of domestic enquiry. He also submits that the services of the petitioner were regularised by order, dated 01.07.1987, and was removed from service by order, dated 27.12.1999, and since then, for almost 12 years, he was out of service. As a consequence to the direction issued by the Labour Court, he was reinstated, but as the back wages and continuity of service were denied, the petitioner suffered a huge financial loss and if atleast continuity of service was granted to him, he would have got more retirement benefits than actually granted to him. In support of his contention, learned counsel placed reliance on the order, dated 20.09.2005, passed by this Court in W.P.No.18921 of 2005.

5. The primary contention of the learned counsel for the petitioner is that the order of removal was passed by the same person, who was part of the inspection team. This issue requires consideration.

6. Learned Standing Counsel for the respondent – Corporation, on instructions, submits that the Depot Manager, who was part of the inspection team and who issued the charge sheet, was later transferred and by the time the disciplinary proceedings reached finality, same officer was not working as disciplinary authority and the order of removal was passed by some other authority.

7. The principle of bias and prejudice would attract in disciplinary proceedings, if a person, who is instrumental in initiation of action and participates in the inspection also takes final decision to impose punishment. However, as per the submission of learned Standing Counsel and as is evident from the record, it is not the same person, who was part of the inspection team and who issued the charge sheet, passed the order of removal from service. Therefore, the principle of personal bias and prejudice is not attracted in the instant case. It is also relevant to note that this contention was not urged by the petitioner either during the departmental proceedings or before the Labour Court.

8. As pointed out by learned Standing Counsel, though the petitioner had an opportunity to examine the then Depot Manager, he did not ask for and did not even choose to lead any oral evidence and reliance was placed on the documentary evidence only. Since the petitioner did not choose to adduce any oral evidence during the hearing of the Industrial Dispute, it is not open to him to raise that contention at this stage, more particularly having regard to the fact that when the incident relates

to the year 1999. Furthermore, the petitioner raised the industrial dispute in the year 2007 i.e., almost six years after rejection of the revision.

9. In the above background facts and on consideration of the material on record, I am not inclined to hold that non-examination of the Depot Manager is fatal to the entire case and to grant the relief as sought for by the petitioner at this stage.

10. Learned counsel for the petitioner, placing reliance on the order of this Court in W.P.No.18921 of 2005, submits that atleast the petitioner should be granted continuity of service. However, the allegation against the petitioner therein was that he issued ticket to one passenger without collecting fair, which resulted in imposing punishment of removal. The Labour Court, while upholding the disciplinary action, interfered with the quantum of punishment imposed against petitioner therein and directed his reinstatement without back wages or continuity of service. This Court, while upholding the decision of the Labour Court, in the facts of the said case, held that the petitioner ought to have been granted the past service also, more so when he rendered 24 years of service.

11. A reading of the order passed in W.P.No.18921 of 2005 would show that it is not a case of allegation of misappropriation. However, in the instant case, the petitioner misappropriated by issuing re-used ticket and the said allegation is proved. The

decision relied upon by learned counsel for the petitioner does not come to the aid of the petitioner.

12. It is well settled principle of law that in matters arising out of the decision of the Labour Court, the jurisdiction of the writ Court is very limited and it does not exercise the appellate jurisdiction over such decisions. As such, the issue for consideration confines only to see whether there is any patent error in appreciating the evidence and whether there is any grave error in observing the principles of law, while adjudicating the matter. In the instant case, the Labour Court, having upheld the disciplinary action, by exercising its discretion, granted the relief of reinstatement. In the facts of this case, I do not see any error, much less patent error, in the order of the Labour Court in directing only reinstatement without back wages and denying continuity of service, warranting interference. There is no merit in the Writ Petition, the same is liable to be dismissed.

13. 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.

P. NAVEEN RAO, J

Date:06.12.2016

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