

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.15141 of 2010

ORDER:

1. The petitioner was appointed as a driver in the 2nd respondent corporation on 01.08.1986. While he was on duty, he was issued with two charge sheets on 19.09.2000 and 31.10.2000 with regard to his over stay of leave, production of bogus Transfer Certificate, residential certificate, caste certificate and driving license. It is the case of the petitioner that the charge sheets were not served on him. However, an Enquiry Officer was appointed and he submitted an exparte report holding that the charges were proved. Thereafter, a show cause notice of removal from service was issued on 30.06.2001 and the services of the petitioner were terminated on 09.08.2001. The petitioner filed I.D.No.221 of 2001 before the 1st respondent challenging the order of termination. An award was passed on 25.10.2005 holding that the termination was bad and the 2nd respondent was directed to reinstate the petitioner into service without continuity of service, back wages and other attendant benefits. Challenging that portion of the award which went against the petitioner, the present writ petition was filed.

2. The charges framed against the petitioner read as follows:-

“(i) For having unauthorizedly absented for your duty from 14.08.2000 to till date i.e., 19.09.2000 without obtaining prior permission or sanction of leave from your Supervisor/Unit Officer causing dislocation of operation of services, besides causing inconvenience to the traveling public and loss to the corporation which is misconduct under Regulation 28 (ix) (a) of APSRTC Employees (Conduct) Regulations 1963.

(ii) For having produced bogus school T.C., residential certificate, caste certificate and driving license at the time of recruitment to the post of driver in APSRTC which is very serious offence under clause (xxii) of Regulation 28 of the APSRTC Employees (Conduct) Regulations, 1963.”

3. The Labour Court independently went into the evidence adduced before it and held that the petitioner went on leave for carrying out construction work of his house and the leave was sanctioned up to 31.08.2000. Though the petitioner was supposed to report for duty on 14.08.2000, he did not report and in the meanwhile a charge memo was issued against him. The Labour Court further held that the absence of the petitioner cannot be termed as unauthorized, but a case of over stay of leave. With regard to the bogus Transfer Certificate, residential certificate, caste certificate and driving license, the Labour Court held that the District Collector is the competent authority to enquire into the social status of the petitioner. It further held that the driving license submitted by the petitioner at the time of his appointment is not found on the record and without any evidence, the Enquiry Officer held that the driving license was a bogus one. The very fact that the petitioner worked as a driver from the date of his appointment for the last 14 years shows his ability, efficiency and competency in driving. In view of the same, the Labour Court held that the dismissal of the petitioner from service was not justified. Thus, the Labour Court did not accept the findings recorded by the Enquiry Officer. While holding so, the Labour Court held that the petitioner was not entitled to continuity of service, back wages and other attendant benefits. When the Labour Court came to the conclusion that the charges against the petitioner were not proved, it entitled to deny the back wages to the petitioner in exercise of its discretionary power, however, it ought not to have denied the continuity of service and other attendant benefits.

4. In the circumstances, this Court is constrained to modify the award of the Labour Court dated 25.10.2005 by directing the 2nd respondent to grant continuity of service and other attendant benefits only for the purpose of calculating the increments and retiral benefits. Further, it is made clear that the petitioner is not entitled for back wages.

5. The Writ Petition is accordingly disposed of. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

06-04-2016
Gsn