

HON'BLE MRS JUSTICE

ANIS

WRIT PETITION No. 15691 OF 2003

ORDER :

This Writ Petition is filed by the petitioner under Article 226 of the Constitution of India for issuance of a writ of Certiorari and to quash the award passed in I.D.No. 148 of 1998 dated 5.9.2001 by the Industrial Tribunal – cum- Labour Court, Anantapur.

2. Petitioner worked as a Conductor in APSRTC, Adoni Depot. While so, when the petitioner was conducting a bus bearing No. AP 9Z 460 from Adoni to Alur on 18.1.1997, a check was exercised by the checking officials at Stage No. 3 and found certain cash and ticket irregularities. The checking officials recorded the statement of the passengers and issued charge sheet framing three charges against the petitioner. Petitioner gave explanation to the charge sheet denying the charges stating that on 18.1.1997 the Controller of the Depot directed the petitioner to go Alur trip instead of Agasanur Trip and no name board was arranged to the said bus. Therefore, the petitioner stood on the foot board and announced the stages of the said bus. By the time the bus reached outskirts there were 90 passengers in the said bus. There were regular pass holders among the

said passengers. Some passengers were standing on the foot board and at stage No. 2 they got down the bus to enable the passengers to alight in that bus and some of the passengers did not take tickets though the petitioner cried aloud to take tickets. In that process, the bus reached Dhanapuram Stage No. 3 and the checking officials checked the bus. Having not satisfied with the explanation given by the petitioner, domestic enquiry was conducted. As the petitioner did not attend the enquiry though the Enquiry Officer given ample opportunity, basing on the evidence and the material on record the Enquiry Officer found the petitioner guilty of the charges. Basing on the enquiry report and after following the procedure the respondent passed the termination orders. The Appellate and Review Authorities confirmed the orders of the disciplinary authority vide proceedings dated 30.12.1997, 13.4.1998 respectively. Aggrieved by the said order, the petitioner preferred the petition under Section 2(A)2 of the I.D. Act. During the course of trial, the Chairman/Presiding Officer formulated three points and during the course of enquiry, no oral and documentary evidence was adduced. Basing on the material available the Tribunal passed the award on 5th September 2001 by setting aside the termination of the petitioner and directed the respondent to reinstate the petitioner into service with continuity of service but without back wages. It also directed the deferment of five annual increments with

cumulative effect. Aggrieved by the same, the present Writ Petition is filed by the petitioner.

3. Learned counsel appearing for the petitioner argued that imposition of punishment of deferment of five annual increments with cumulative effect is illegal, arbitrary and unjust, therefore, prayed this Court to quash the award in I.D.No. 148 of 1998. He relied upon the judgment in N. THANIKLAS Vs. THE INDUSTRIAL TRIBUNAL-I AND OTHERS^[1].

4. On the other hand, the learned counsel appearing for respondent argued that this Court no doubt passed the judgment in W.P.No. 25898 of 2005 holding that multiple punishments are prohibited as per circular issued by the respondent dated 20.09.1988, but the petitioner is not entitled for any back wages or continuity of service as the Tribunal rightly held that the petitioner has not worked at the relevant time, as such 'no work no pay', therefore, the petitioner is not entitled for continuity of service.

5. Having regard to the submissions made by the learned counsel for both the parties, the point that arise for consideration is whether the petitioner is entitled for the relief as sought?

6. On a perusal of the record, it is clear that the petitioner was working as Conductor in APSRTC, Adoni Depot, prior to his dismissal from service. On 18.1.1997

while the petitioner was conducting the bus bearing No. AP9Z 460 from Adoni to Alur, a check was exercised by the checking officials at Stage No. 3 and found certain cash and ticket irregularities. The checking officials issued charge sheet framing three charges against the petitioner. Petitioner gave explanation to the charge sheet denying the charges stating that on 18.1.1997 the Controller of the Depot directed the petitioner to go Alur trip instead of Agasanur Trip and no name board was arranged to the said bus. By the time the bus reached outskirts there were 90 passengers in the said bus. In that process, the bus reached Dhanapuram Stage No. 3 and the checking officials checked the bus and found some irregularities. Having not satisfied with the explanation given by the petitioner, domestic enquiry was conducted. Basing on the evidence and the material on record the Enquiry Officer found the petitioner guilty of the charges. Basing on the enquiry report and after following the procedure the respondent passed the termination orders. The Appellate and Review Authorities confirmed the orders of the disciplinary authorities vide proceedings dated 30.12.1997, 13.4.1998 respectively. Aggrieved by the said orders, the petitioner preferred the petition under Section 2(A) 2 of the I.D. Act. Basing on the material available the Tribunal passed the award on 5th September 2001 by setting aside the termination of the petitioner and directed the respondent to reinstate the petitioner into

service with continuity of service without back wages but with deferment of five annual increments with cumulative effect. The only contention raised by the counsel appearing for the petitioner is that the Tribunal exceeded its jurisdiction and the same is against the contents of circular No. PD-97/1988 dated 20.09.1988 issued by the APSRTC wherein the circular prohibited multiple punishments being imposed in a single case. This Court in W.P.No. 25898 of 2005 categorically held that respondent had passed orders ignoring Circular dated 20.09.1998 while dealing with the case of the petitioner therein. The relevant portion of the order in W.P.No. 25898 of 2005 reads as under:

“Circular No. PD-97/1988 dated 20.09.1988 issued by the Vice Chairman and Managing Director of the APSRTC provides that punishments like deferment of increments for more than 2 years or reduction in pay by more than 2 stages should not be imposed as a matter of routine and if an offence is proved on the part of an employee, deferment of increment for more than 2 years or reduction in pay by more than 2 incremental stages should not be imposed in a single case. This Circular therefore prohibited multiple punishments being imposed in a single case. However, the Circular was completely ignored while dealing with the case of the petitioner.”

7. In the present case, the Tribunal directed the respondent to defer five annual increments with cumulative effect. Therefore, this observation of the Tribunal is against the circular No. PD-97/1988 dated

20.09.1988 and this Court in W.P.No. 25898 of 2005 clearly held that the circular dated 20.09.1988 issued by the APSRTC prohibited multiple punishments being imposed in a single case. In the present case, the Tribunal no doubt ordered reinstatement of the petitioner without back wages and that itself is sufficient for the petitioner but further deferment of five annual increments is against the circular dated 20.09.1988.

8. The learned counsel appearing for respondent argued that if this Court set asides the order of deferment of five annual increments, the petitioner may claim monetary benefit and it will burden the Corporation.

9. Against the orders passed by the Tribunal in I.D.No. 148 of 1998 dated 5.9.2001, the RTC has not preferred any Writ Petition challenging the award. Therefore, the said award is binding on the respondent - RTC. The petitioner challenged the award by way of this Writ Petition. Therefore, I do not find any merit in the argument of the respondent-RTC. Having regard to the facts and circumstances of the case this Court finds that the deferment of five annual increments with cumulative effect is unjust and against the circular dated 20.09.1988, therefore, that portion of the award is set aside.

10. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall stand

closed.

ANIS, J

Date: 13.04.2016
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[\[1\]](#) W.P.NO. 25898 OF 2005 DATED 6.10.2015