

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.2251 of 2009

ORDER:

This Writ Petition under Article 226 of the Constitution of India came to be filed by the petitioner-APSRTC questioning the award dated 29.02.2008 made in I.D.No.29/2007 by the Labour Court-III, Hyderabad, whereby the petitioner herein was directed to reinstate the 1st respondent into service with continuity of service but without back wages.

Facts in issue are as under:

The 1st respondent herein was engaged as a casual conductor on daily wage basis w.e.f.01.01.1986 and was attached to Shadnagar Depot during the relevant time. On 09.02.2006 when the 1st respondent was attending his duties, his duty was changed by the then duty Traffic Supervisor N.Malla Reddy. It is the case of the 1st respondent that when he questioned about change in his duty, the Traffic Supervisor behaved in a high handed manner with the 1st respondent, abused him in filthy language and directed the 1st respondent to attend the assigned duties. It is further alleged that the Traffic Inspector also threatened the 1st respondent to see that he would be terminated from employment. Having no other option, the 1st respondent reported the matter to the Depot Manager. Simultaneously, the Traffic Inspector also submitted a complaint against the 1st respondent and the same was taken on file and an enquiry was ordered. The enquiry officer conducted enquiry and basing on the evidence of the witnesses, the 1st respondent was imposed with the punishment of removal from service. The appellate authority also rejected appeal filed by the 1st respondent. Aggrieved by the same, the

1st respondent preferred I.D.No.29 of 2007 before the Labour Court. By an order dated 29.02.2008, the Labour Court partly allowed the petition filed by the 1st respondent by setting aside the order of removal dated 27.10.2006 and consequently directed the petitioner herein to reinstate the 1st respondent into service with continuity of service, however, without back wages. Questioning the same, present Writ Petition is filed.

On 10.02.2009, this Court while admitting the Writ Petition, granted interim stay of execution of award dated 29.02.2008 with regard to continuity of service. Seeking to vacate the said order, WVMP No.2907 of 2012 came to be filed by the 1st respondent along with a counter affidavit contending that due to union rivalry, allegations were made against him and as there is no oral evidence, the Labour Court rightly modified the punishment of removal from service to reinstatement without back wages. Hence, prayed for dismissal of the writ petition.

As can be seen from the material on record, particularly the Award passed by the Labour Court, it has been held that The Assistant Manager (T) Shadnagar Mr.K.Sathaiah and another witness Sri J.Srinivas Reddy, conductor, corroborated the evidence of the complainant. It was further held that the evidence adduced on behalf of the petitioner was not shattered by the 1st respondent herein in the cross-examination. Insofar as imposition of punishment is concerned, the Labour Court held that the past misconduct of the 1st respondent, alleged by the petitioner, was not part of the charge sheet. Hence, it has been held that the same cannot be made basis for imposition of punishment for the present misconduct and thereby modified the punishment of removal as ordered by the Enquiry Officer to that of

reinstating the 1st respondent into Service with continuity of service, however, without back wages.

As seen from the record, there is no enmity between the 1st respondent and the Traffic Inspector and the incident is said to have happened in a spur of moment. When the Traffic Inspector changed the duty of the 1st respondent, he might have abused the Traffic Inspector in filthy language. For such act of the 1st respondent, the punishment of removal from service, in my view, is on much higher side. Further, it is the specific plea of the 1st respondent that as against the behaviour of the Traffic Inspector, he also made a complaint before the higher authorities, however, the same has not seen the light.

Be that as it may, having regard to the manner in which the incident took place; since the past conduct of the 1st respondent is not part of the present charge sheet and considering the fact that the incident took place in a spur of the moment, this Court is not inclined to interfere with the finding arrived at by the Labour Court. It is also brought to the notice of this Court that the 1st respondent is due to retire from service in March, 2017.

Having regard to the above, I see no merit in this writ petition to interfere with the Award passed by the Labour Court. Therefore, the Writ Petition is dismissed.

Miscellaneous petitions pending in this writ petition, if any, shall also stand closed. No order as to costs.

07.02.2017
sur

C. PRAVEEN KUMAR, J