

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.13806 of 2007

ORDER:

In the present writ petition, challenge is to the Award dated 25.9.2006 passed by the Industrial Tribunal-cum-Labour Court, Ananthapur in I.D.No.300 of 2002.

2. According to the 1st respondent-workman, he was appointed as a Driver in the Petitioner-Corporation on 1.7.1989. The Petitioner Corporation initiated departmental action against the 1st respondent herein by issuing a charge sheet on 7.4.1998, framing the following charge.

“For having attempted to carry stealthily E-2 Pain Tins (4 Ltrs. each) of LT Biscuit colour and Apple green through the DGT vehicle No.AAZ 4549 at about 20.05 hrs. on 18.3.98, which constitutes misconduct as per Reg.28(x) of APSRTC Employees (Conduct) Reg. 1963”.

3. In response to the same, 1st respondent-workman submitted an explanation and not satisfied with the same, a regular enquiry was ordered by appointing an Enquiry Officer. The Enquiry Officer submitted his report on 5.8.1998, holding the charge as proved. Thereafter, by way of an order dated 18.9.1998, the disciplinary authority removed the 1st respondent from service. After unsuccessfully availing the remedies of appeal and revision, the 1st respondent herein raised I.D.No.300 of 2002 under Section 2A(2) of the Industrial Disputes Act, 1947 (for short 'the Act') on the file of the Industrial Tribunal-cum-Labour Court, Ananthapur. The Tribunal, on the basis of the material available, framed the following point for consideration.

“Whether the petitioner herein (workman) is entitled for setting aside the order of removal from service issued by the Respondent (Corporation) in his proceedings dated 10.9.2003, for reinstatement into service and other consequential benefits as prayed for”.

4. Before the Tribunal, no oral evidence was adduced by the parties. The Petitioner Management filed Exs.M1 to M31 in support of their case. The Tribunal, by way of impugned award, allowed the I.D. in part, directing reinstatement of the workman/1st respondent herein and also granted continuity of service and attendant benefits only but without back wages.

5. According to the learned Standing Counsel appearing for the Petitioner Corporation, the impugned award to the extent of granting relief is highly illegal, arbitrary and opposed to the very spirit and object of the Regulations of A.P.S.R.T.C. It is the further submission of the learned Standing Counsel that only after completely following all the statutory formalities and only after giving complete opportunity to the 1st respondent herein, the Depot Manager-petitioner herein terminated the workman-1st respondent from service, as such, the said order ought not to have been interfered by the Tribunal.

6. On the contrary, supporting the award under challenge, it is submitted by the learned counsel appearing for 1st respondent-workman that only after considering the entire material available on record, the Tribunal passed the order under challenge and in the absence of any jurisdictional error, the impugned award does not warrant any interference of this Court under Article 226 of the Constitution of India.

7. The information available before this Court manifestly discloses that during the course of preliminary enquiry, one Mr.Gopal who was working in Paint Stores stated that as per the issue register from the month of December, 1997 to 18.3.1998, the Apple Green and LT Biscuit Paint were shown as –Nil- and he further stated that the paint tins which were allegedly removed from the DGT vehicle were not shown in the stock and he had no knowledge as to how it was stolen. In the impugned award, the Tribunal also took note of the significant aspect of non-examination of Supervisor either during preliminary enquiry or in the domestic enquiry to speak about the stock position of the paint tins as per stock register. The Tribunal also had considered Ex.M20 and M22, statements of Painter and Leading Hand in the Respondent Organisation. After thoroughly assessing the entire material on record, the Tribunal came to a conclusion that the Petitioner Organisation did not prove the involvement of workman in removing two tins from the garage. In fact, the Tribunal while setting aside the order of removal, directed reinstatement of the workman with continuity of service and attendant benefits, but without any back wages. Since the Tribunal elaborately and meticulously considered the entire material available on record, this Court does not find any reason to interfere with the said reasoned order passed by the Tribunal.

8. It is a settled and well established principle of law, as laid down by the Hon'ble Supreme Court in Syed Yakoob v. K.S. Radhakrishnan and others¹ that a writ in the nature of Certiorari can be issued only in cases where there is jurisdictional error and violation of principles of natural justice. The Hon'ble Supreme Court in the said judgment further

¹ AIR 1964 SC 477

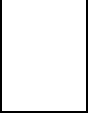
held that the jurisdiction to issue a writ of certiorari is a supervisory one and in exercising it, the Court is not entitled to act as an appellate court. In the instant case, this Court does not find any error of jurisdiction in the order passed by the Tribunal.

9. For the aforesaid reasons, the writ petition is dismissed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 1.11.2017
DA





THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.13806 of 2007

1.11.2017

DA