

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.7338 OF 2004

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue a appropriate writ, order or direction especially in the nature of writ of Certiorari calling for the records relating to the impugned award dt.31.10.2003 made in I.D.No.72/2001 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam and quash the same as being illegal, arbitrary.”

2. Case of the petitioner, in brief, is as follows:-

Respondent No.1 herein joined the Andhra Pradesh State Road Transport Corporation on 06.01.1979 and continued in service till the date of his removal. For his absence, he was punished five times by the management and those punishments were entered in his service record. While respondent No.1 was working at Razole Depot, he was absent from 28.01.2000 to 25.02.2000 unauthorisedly without sanction of leave. On 25.02.2000, he turned up for duty and on the same day, a charge sheet, dated 14.02.2000, was issued to him. The S.T.I., Razole conducted a detailed domestic enquiry on the charges and a show cause notice of removal, dated 07.03.2000, was issued to him for which, he submitted his explanation on 15.03.2000. After giving explanation to the show cause notice, respondent No.1 worked for sometime and absented himself from 01.06.2000 onwards without sanction of leave. In those circumstances, the order of removal

was passed on 05.06.2000. Respondent No.1 did not mend himself though number of opportunities were given to him and he also did not submit the sick certificate within 48 hours and did not intimate about his sickness to the management. Challenging the removal order, respondent No.1 filed I.D.No.72 of 2001 on the file of the Industrial Tribunal – cum – Labour Court, Visakhapatnam and the same was allowed without costs on 31.10.2003 and respondent No.1 was ordered to be reinstated into service with all consequential benefits. On 09.02.2004, respondent No.1 was reinstated into service and posted to Amalapuram Depot. Aggrieved by the said Award, A.P.S.R.T.C. filed the present writ petition.

3. Learned Standing Counsel appearing for the petitioner/ A.P.S.R.T.C. submitted that a lenient view cannot be taken on respondent No.1 as he is a chronic absentee to his duties and hence, the award passed by the Tribunal is liable to be set aside.

4. Learned counsel appearing for respondent No.1 opposed this writ petition and submitted that a lenient view may be taken against respondent No.1 and the petitioner may be directed to pay the back wages to respondent No.1.

5. Considering all the facts and circumstances of the case and taking into consideration of the fact that respondent No.1 has rendered many years of service, the Award, dated 31.10.2003, in I.D.No.72 of 2001 on the file of the Industrial Tribunal – cum – Labour Court, Visakhapatnam is modified only to the extent of back wages. The petitioner is directed to pay 40% of the back wages to respondent No.1 after deducting the amounts paid to him

under Section 17(B) of the Industrial Disputes Act, 1947 within a period of twelve (12) weeks from the date of receipt of a copy of this order. The other aspects of the Award are not interfered with.

6. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

7. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

Date: 11.09.2017
AMD



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