

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Writ Appeal No.854 of 2017

DATED:23-08-2017

Between:

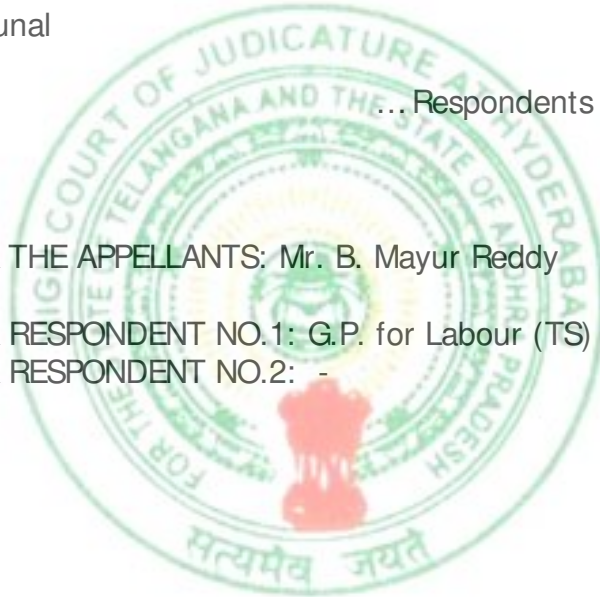
The Deputy Chief Traffic Manager
Andhra Pradesh State Road Transport Corporation
Warangal
and another ... Appellants

And

The Chairman
Industrial Tribunal
Warangal
and another ... Respondents

COUNSEL FOR THE APPELLANTS: Mr. B. Mayur Reddy

COUNSEL FOR RESPONDENT NO.1: G.P. for Labour (TS)
COUNSEL FOR RESPONDENT NO.2: -



THE COURT MADE THE FOLLOWING:

ORDER: (per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)

The order of the learned single Judge whereby he has dismissed Writ Petition No.39692 of 2016 filed by the appellants against award dt.8.6.2016, of the Industrial Tribunal, Warangal, (for short, "the Tribunal") in I.D. No.53 of 2011, is assailed in this writ appeal.

The appellants have initiated disciplinary action against respondent No.2 for the alleged cash and ticket irregularities. The enquiry officer has framed the following charges.

"Charge No.1:- For having failed to close the tray Nos. of Rs.6/- denomination correctly at stage No.19 (Abbaipalem). You have closed 847 instead of 849 in S.R. and in next stage, you have closed the tray Nos. as 850 and show issues as 3 in S.R. issues column. You have closed as 849 of Rs.6/- denomination from stage Nos.22 to 20 and above two tickets were re-issued at stage No.19, and defrauded legitimate revenues of the Corporation, which is misconduct in terms of Reg.28 (vi)(a), (xxiii) and (xxxi) of APSRTC Employees (Conduct) Reg. 1963.

Charge No.2:- For having failed to close the tray Nos. of Rs.3/- denomination at stage No.1, but you have closed as 808 in S.R. and closed as 809 in Way Bill, which amounts to misconduct in terms of Reg.28 (xxv) and (xxxii) of APSRTC Employees (Conduct) Reg. 1963."

Considering the enquiry report dt.01.09.2007 wherein the enquiry officer found both the charges proved, by order dt.24.09.2007 appellant No.2 has imposed the punishment of deferment of annual increments for a period of two years with cumulative effect. Respondent No.2 has raised an industrial dispute against the said order. The dispute was referred to respondent No.1 – Tribunal. Considering the evidence on record, respondent No.1 has held that charge No.1 was not proved, but charge No.2 was held proved. Based on the said finding, the Tribunal exercising its power under Section 11-A of the Industrial Disputes Act, 1947 (for short, "the Act") reduced the penalty to withholding of one increment with cumulative effect. This award was unsuccessfully challenged by the appellants, before the learned single Judge.

At the hearing, Mr. B. Mayur Reddy, learned counsel for the appellants, strongly submitted that charge No.2 pertains to

misappropriation of Rs.3/- (Rupees three rupees only) and that the Tribunal ought not to have interfered with the quantum of penalty, having held that charge No.2 was proved.

A perusal of both the charges shows that they relate to misappropriation of money. The punishment of withholding of two increments with cumulative effect was imposed based on the finding of the enquiry officer that both the charges were proved. However, the Tribunal held that only one out of the two charges was proved and evidently based on this finding it has felt that the penalty of withholding of two increments with cumulative effect is disproportionate to the nature of the charge. The law is well settled that under Section 11-A of the Act the Industrial Tribunal is vested with the power to substitute the penalty based on the facts and circumstances of the case. On the facts of the present case, it cannot be said that the Tribunal was not justified in rendering a finding that charge No.1 was not proved. As there remained charge No.2 which was held proved, the Tribunal has reduced the penalty to withholding of one increment only. The learned single Judge therefore rightly declined to interfere with the discretion exercised by the Tribunal and we do not see any reason to interfere with the orders of the Tribunal as well as the learned single Judge in exercise of our letters patent jurisdiction.

The writ appeal is accordingly dismissed.

As a sequel to dismissal of the writ appeal, W.A.M.P. No.1672 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

M.S.K. JAISWAL, J

23-8-2017

bnr

