

THE HON' BLE SRI JUSTICE C. V. NAGARJUNA REDDY
AND
THE HON' BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

Writ Appeal No. 1109 of 2017

JUDGMENT: (per GSP, J)

This writ appeal is filed by the Depot Manager, Telangana State Road Transport Corporation (for short, 'Corporation') assailing the order in W.P.No.21618 of 2008 whereby the learned Single Judge partly allowed the writ petition quashing the Award passed by the Labour Court to the extent of denying full back wages and ordering deferment of two annual increments with cumulative effect and with a direction that respondent No.1 is entitled only for half of the back wages.

2. Brief facts of the case are that respondent no.1 - N. Ashok was appointed as a Cleaner on permanent basis in the respondent-Corporation on 10.10.1977 and he was promoted to the post of Helper in the year 1988. While discharging his duties as Helper, he was issued a Charge sheet-cum-suspension order dated 09.07.2002 on the allegation that he was found in intoxicated condition while on duty in the Relief Van bearing No. APZ 5053 in the premises of Hyderabad-II bus stand and that he misbehaved with ladies in the bus stand tarnishing the image of the Corporation. The Depot Manager of the Corporation, on a telephonic complaint of a lady passenger, has issued the aforestated charge sheet-cum-suspension order and respondent No.1 submitted his explanation dated 27.03.2002 denying the charges. He has also submitted a representation to the corporation to furnish some documents but there was no response from the latter. It is the further case of respondent No.1 that without considering his explanation dated 27.03.2002, an enquiry was

ordered and in the enquiry, Mr. G. Ramesh, Mech. Foreman, and Mr. Y. Ramesh, Security Head Guard, Dilsukhnagar Depot were examined on behalf of the Corporation. During the enquiry, Mr. Y. Ramesh, Security Head Guard, has deposed that he had not seen respondent No.1 in drunken condition. It is his further case that all other witnesses examined on behalf of the Corporation have clearly stated that respondent No.1 has not committed any irregularity as alleged in the charge sheet-cum-suspension order and that without considering the facts of the case, the enquiry officer gave findings holding him guilty of the alleged charges. That though respondent No.1 has submitted his comments on the enquiry report on 20.11.2002, they were not considered and the Corporation has issued the Show Cause notice mechanically for his removal from service, that he submitted his explanation dated 30.01.2003 which was also not considered, that thereafter, he preferred an appeal before the Divisional Manager, Hyderabad, on 08.03.2003 and that the same was rejected. Respondent No.1 also preferred a review application dated 10.09.2003 to the Regional Manager and it was also rejected. Therefore, respondent no.1 raised a dispute before the Labour Court under the Industrial Disputes Act, and the same was registered as I.D.No.50 of 2004 on the file of the Labour Court-I, Hyderabad. The Labour Court, on consideration of the matter and upon hearing both sides, has passed Award dated 27.06.2005 setting aside the order of removal and directing the Corporation to reinstate the petitioner with continuity of service and attendant benefits but without back wages, with a further direction to defer two annual increments with cumulative effect. Aggrieved by the order passed by the Labour Court, respondent No.1 filed W.P.No.21618 of 2008.

3. The learned single Judge has observed in the impugned order that the alleged misbehaviour of the petitioner with lady passengers in the bus stand is not proved as no witness was examined by the management to prove the said allegation. He has also observed that there is no medical report available to support the allegation that respondent No.1 was in a drunken state while on duty and that deferment of two annual increments with cumulative effect is a major punishment which cannot be imposed without there being any evidence pointing to the guilt of respondent No.1. The learned single Judge has accordingly partly allowed the writ petition as mentioned supra.

4. We have heard the arguments of learned counsel for the Corporation, and learned counsel for respondent No.1.

5. It is obvious from the order passed by the learned single Judge that in the absence of any evidence pointing to the guilt of the petitioner, this is not a fit case for imposing a major punishment of deferment of two annual increments with cumulative effect. It is pertinent to note that the learned single Judge has partly allowed the writ petition quashing the Award only to the extent of denying full back wages and ordering deferment of two annual increments with cumulative effect and directing that respondent No.1 is entitled only for half of the back wages.

6. The only point that is to be considered in this writ appeal is whether the punishment imposed on respondent No.1 is disproportionate to the charge framed against him.

7. The order passed by the Labour Court would indicate that certain observations were made considering the evidence available on record. The said observations of the Labour Court in paragraph 7 of the Award are as under:

“Except the evidence of Mechanical Foreman and Security Guard, there is no other independent evidence to show that the petitioner was found in a intoxicated condition. However the evidence of the mechanical foreman and security guard cannot be wiped out because they have directly witnessed the incident and they have nothing to speak falsehood against the petitioner who were working in the same depot. As it can be seen from the material on record, the petitioner workman was found to be in a drunken condition while he was on duty and present in the relief van, situated at Hyderabad-II depot. He also might have mis-behaved with a lady passenger who just pass a message to the concerned depot. The detail enquiry conducted by the respondent through an enquiry officer has given a clear findings that the charge against the petitioner is proved. The said findings have accepted by the disciplinary authority and in the appeal preferred by the petitioner also rejected. The respondent is a public corporation catering the needs of the travelling public in the State. The behaviour of the petitioner who found in the public place in a drunken condition while he was on duty, naturally spoils the image of the corporation. The behaviour of the petitioner is absolutely uncalled for while he was on duty and being a employee of the corporation though he was found to be in a drunken condition he did not cause any inconvenience to the work entrusted to him.”

8. The Labour Court however took a lenient view considering the fact that as per the available evidence, respondent No.1 was not found in drunken condition in depot premises, though he consumed alcohol while on duty outside his regular work place and modified the penalty as noted above.

9. In our opinion, the conduct of respondent No.1 deserved the penalty as substituted by the Labour Court. As regards Back Wages, the relief granted by the learned Judge, i.e., payment of 50% Back Wages is

appropriate in the facts and circumstances of the case which would meet the ends of justice.

10. Accordingly, the writ appeal is partly allowed, modifying the order passed in the writ petition and confirming the Award passed by the Labour Court with regard to deferment of two annual increments with cumulative effect, however, directing the appellant-Corporation to pay 50% of back wages. No costs. Pending miscellaneous petitions, if any, shall stand closed.

C.V. NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

8th August, 2017

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