

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.19597 OF 2007

ORDER:

The writ petition is filed questioning the award dated 19.02.2007, passed by the Labour Court, Warangal in I.D.No.144 of 2004.

Andhra Pradesh Road Transport Corporation filed the present writ petition. The Labour Court in exercise of its powers under Section 11A of the Industrial Disputes Act, 1947 (for short, "the Act"), taking into consideration of the facts on record had modified the punishment of reduction of pay by two incremental stages for a period of three years with cumulative effect besides treating the period of suspension as not on duty against the 2nd respondent "with reduction of pay by two incremental stages for a period of two years with cumulative effect besides treating the period of suspension as not on duty".

The award is challenged mainly on the ground that the the 2nd respondent-workman has approached the Labour Court by filing I.D.No.144 of 2004 and the said I.D came to be considered after 23 years of the punishment having been imposed. Elaborating on the facts, the learned standing counsel for the petitioners Corporation submits that the incident of misconduct has occurred on 25.7.1980 and the disciplinary authority after completion of the enquiry had imposed the punishment of removal of the workman from the service, but the appellate authority by order dated 13.01.1981, had modified the same by reinstating the workman into service and imposing the punishment of reduction of pay by two incremental stages for a

period of three years with cumulative effect besides treating the period of suspension as not on duty against the 2nd respondent-workman. The workman did not choose to question the same and thereafter, he was also promoted as Assistant Depot Clerk. It is only thereafter, the workman chose to approach the appropriate authority seeking reference. The Labour Court having held that the charges against the workman were proved and there was no irregularity in conducting the enquiry ought not to have interfered with the modified punishment imposed on the workman.

On the other hand, learned counsel for the 2nd respondent-workman submits that the 2nd respondent sought reference to the appropriate authority and at that stage, there was no objection taken with respect to the reference having been made and in that view of the matter, the so-called delay cannot be a ground to refuse the relief in favour of the 2nd respondent-workman.

Perused the record and considered the respective arguments. In the facts of the present case, the appellate authority itself had thought it fit that the punishment of removal imposed by the disciplinary authority on the 2nd respondent-workman was harsh and came to the conclusion that the same requires to be modified and accordingly modified the punishment imposed. The Labour Court on further appreciation of the material on record came to the conclusion that the modified punishment of reduction of two incremental stages of pay for a period of three years with cumulative effect besides treating the suspension period as not on duty is not justified. In

other words, the Labour Court had admittedly exercised its discretion in terms of Section 11A of the Act. The delay in approaching the Labour Court, though was raised before the Labour Court the same was not seriously canvassed. Even otherwise, merely because, there was a delay in matter being referred by the competent authority, it cannot be said that the 2nd respondent-workman could be disentitled which he is otherwise eligible. In those circumstances, discretion exercised by the Labour Court does not call for any interference at this point of time especially considering the fact that the 2nd respondent-workman had retired from service, it is not a fit case to be interfered.

Accordingly, the writ petition is dismissed. No order as to costs.

Miscellaneous petitions, if any pending in this writ petition shall stand closed.

CHALLA KODANDA RAM,J

Date:05.01.2017,
Gk.

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