

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.28997 OF 2013

ORDER:

Aggrieved by the Award dated 30.04.2012 passed in Industrial Dispute No.44 of 2010 by the Labour Court, Guntur, the present Writ Petition is filed by the petitioner-Corporation.

The facts, which led to filing of the present Writ Petition, are as under:

The workman by name P.Prasada Rao, while working as a conductor in Machilipatnam Depot, was alleged to have entered into the room of the Superintendent on 23.06.2004 and demanded for grant of leave on 24.06.2004 or to change the duty. When the workman was advised to go away, as he was in a drunken condition, the workman did not heed to his words. When the Security Head Guard arrived with a breath analyser, the workman left the place. Basing on the report submitted by the Superintendent, the Assistant Manager (P) Machilipatnam Depot conducted preliminary enquiry and submitted his report on 29.06.2004. Basing on said report, the workman was placed under suspension, apart from issuing a charge sheet levelling two charges. While denying the charges levelled against him, the workman has submitted his explanation to the charge sheet. As per the evidence available on record, the Enquiry Officer concluded that charges are not proved against the workman. However, the Depot Manager issued show cause notice for punishment on 30.10.2004. The workman denied the enquiry report and submitted his explanation to the show cause notice on 26.11.2004. Without considering the explanation, the Depot manager, imposed

the penalty of withholding of annual increments for a period of two years, which shall have the effect on his future increments besides treating the period of suspension as not on duty vide order dated 28.12.2004. As against the same, the workman preferred an appeal before the Divisional Manager, Machilipatnam, who considered the appeal and modified the punishment orders reducing the punishment to that of withholding the annual increment for a period of one year which shall have the effect on his future increments, vide order dated 25.04.2005. As against the said order, the workman preferred a review petition before the Regional Manager, Vijayawada, on 0.08.2005, which was rejected vide order dated 19.05.2006. Alleging that, when the charges levelled against the workman are not proved, the punishment imposed is disproportionate, the workman filed I.D.No.44 of 2010 wherein vide Award dated 30.04.2012, the Labour Court modified the punishment of deferment of annual increment for one year with cumulative effect to that of without cumulative effect. Challenging the same, present Writ Petition is filed by the Corporation.

Heard the learned Standing Counsel for the Corporation and perused the material on record.

The only question that arises for consideration of this Court is 'whether the punishment imposed on the workman is disproportionate?'

As seen from the material on record, though in preliminary enquiry, the workman was found guilty, however, in the enquiry conducted by the Enquiry Officer, it was held that the charges

levelled against the workman were not proved. In said enquiry, the witnesses have denied that the workman was in drunken condition at the time of incident. Further, the workman was neither tested with a breath analyser nor sent for medical examination to know whether he was in drunken condition at the time of the incident. Considering those circumstances, the Enquiry Officer held that the charges levelled against the workman as not proved. However, without considering the same, the Depot Manager imposed punishment on the workman deferring annual increments for two years with cumulative effect. Thereafter, the said punishment was reduced by the appellate authority and Labour Court to that of deferment of annual increment for one year without cumulative effect. When once the Enquiry Officer held that the charges levelled against the workman are not proved, the action of imposition of punishment by the Depot Manager cannot be sustained. However, in the absence of any counter claim being preferred by the workman, this Court is of the view that the punishment imposed on the workman by the Labour Court is liable to be confirmed and the same requires no interference of this Court.

Accordingly, the Writ Petition is dismissed.

Miscellaneous Petitions pending in this petition, if any, shall stand closed. No order as to costs.

JUSTICE C. PRAVEEN KUMAR

27.04.2017
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