

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.42990 of 2017

ORDER:

Heard the learned Counsel for the petitioner. The petitioner was appointed as Attender on 19.02.1991. His services were regularized on 09.11.1991. The petitioner states that his designation was changed to Shramik and was asked to work in the depot garage maintenance with effect from 26.08.2003. He further states that while working as Shramik at Jangaon Depot he fell sick and he suffered from fever. Later on it was detected as Jaundice. He states that while he was undergoing treatment at his in-laws house, one of the villagers received the charge sheet and other letters on his behalf and handed over them to his parents. They, being uneducated, remained silent and after he returned to his native place he came to know that an enquiry was conducted against him. He went to report for duty on 02.04.2011 after becoming fit, but came to know that an order of removal was already passed by then. He was served with the order of removal dated 17.04.2011. He preferred an appeal to the appellate authority and it was rejected on 22.02.2012. The mercy petition to the Executive Director also ended in dismissal on 04.09.2012. After exhausting the remedies as stated above, he approached the Labour Court by filing I.D.No.14 of 2013. Now when the Labour Court dismissed the said case on 21.12.2015 he filed the present Writ Petition.

The case set up by the petitioner before the Labour Court was that on 05.10.2010 he fell sick and it was detected as Jaundice. While he was undergoing treatment at his in-laws place, his parents received the charge sheet and letters from the respondents. But, they being illiterate, they remained silent. When he went to report to duty on 02.04.2011 he came to know that a show cause notice for removal was already issued. Later on the removal order was served on him. The respondent therein filed a counter affidavit stating that the petitioner was charge sheeted on the report of the Assistant Mechanical Foreman, Jangaon, and though the petitioner received the said charge sheet, he did not submit any explanation. A domestic enquiry was ordered and the petitioner was served with enquiry notice. But, he did not participate in the enquiry. Therefore, an *ex parte* enquiry was conducted. Based on the evidence available on record, the Enquiry Officer submitted the report holding that charge was proved. The enquiry findings were sent to the petitioner by registered post for offering his objections/comments. Though the petitioner received the same, he did not offer his objections/comments. When a show cause notice was issued for removal from service by registered post as well as by affixing on the Notice Board of the Maintenance Section, though the petitioner received the show cause notice, he did not submit any explanation. The petitioner was removed four times for his unauthorized absence and was reinstated into service. Now again the petitioner remained absent and in those

circumstances, it was proved that he was unprofitable employee and his reinstatement would vitiate the interests of the Corporation.

No oral or documentary evidence was adduced on behalf of the petitioner. The respondent therein filed 20 documents and Xerox copy of the service record of the petitioner, which were filed as Exs.M1 to M21. Though the petitioner pleaded that he was suffering from Jaundice, no medical report was filed before the Labour Court nor any doctor was examined. The Labour Court dismissed the ID with the following observations:

“It is settled law that the punishment should be fair, adequate and proportionate. Absence of shramik without leave and without reasonable cause certainly leads to improper maintenance of vehicles, unpunctual operation of services and inconvenience to the traveling public besides loss of revenue to the Corporation. The petitioner being the shramik of the Corporation is expected to discharge his duties with devotion and commitment. As per the charge, the petitioner’s unauthorized absence was from 5.10.2010. There is no denial that earlier quare he was removed and reinstated into service in absenteeism cases. Habitual absenteeism is gross violation of discipline. In the circumstances, the punishment imposed on the petitioner cannot be said to be disproportionate to the proved misconduct.

For the foregoing reasons, it is held that the findings of the Enquiry Officer that the charge was proved are proper and correct and that the punishment imposed on the petitioner is not disproportionate to the proved misconduct. The points are accordingly answered.”

This Court is in complete agreement with the aforesaid observations. Since the Labour Court passed the award after going through the evidence and in the absence of any vitiating factor, this Court does not want to interfere with the said award.

The Writ Petition is, accordingly, dismissed at the admission stage. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

18.12.2017

vs

