

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.7740 of 2012

ORDER :

Heard the counsel for petitioner, and Sri N. Vasudeva Reddy, counsel for respondent nos.1 to 3.

2. This Writ Petition is filed assailing Award dt.27.06.2011 passed in I.D.No.37 of 2009 of the 4th respondent.

3. The petitioner herein is the workman. He was employed as Junior Assistant on 07.08.1978 through a process of selection.

4. Subsequently, a charge-sheet was issued on 15.09.1998 stating that he unauthorisedly absented from duties from 29.08.1998 to 08.09.1998 and 10.09.1998 to 15.09.1998 without intimation or prior sanction of leave.

5. Explanation was submitted denying the charge and after a disciplinary enquiry was conducted, an enquiry report was submitted finding the petitioner guilty of the charges framed. Thereafter, an order of removal from service was passed on 09.12.1998.

6. The said order was also confirmed by the 2nd respondent.

7. An application under Section 2A(2) of the Industrial Disputes Act, 1947 was filed by the petitioner in the year 2009 challenging the order dt.09.12.1998 removing him from service and seeking

reinstatement with continuity of service, consequential benefits and backwages, which was numbered as I.D.No.37 of 2009.

8. Before the 4th respondent, the petitioner examined himself as WW.1 and marked Exs.W.1 to W.4. The respondent examined himself as MW.1 and marked Exs.M.1 to M.4.

9. The 4th respondent passed an Award on 27.06.2011 holding that petitioner did absent from duties for the above periods; that petitioner did not deny the allegation that he had not attended to duty on that period, but his defence was that he had applied for leave on account of ill-health and the disciplinary authority did not comment on the application of petitioner for grant of leave. It noted that there is no mention in the order of the disciplinary authority whether he had granted leave or refused leave, and the disciplinary authority also failed to consider whether petitioner was really suffering from ill-health or not. Taking into account the fact that petitioner joined in the service of the respondents in the year 1978, the 4th respondent held that the punishment of removal was liable to be interfered with exercising power under Section 11-A of the Act and it substituted the same by granting fresh appointment as Junior Assistant to the petitioner.

10. In granting the said relief, the fact that petitioner did not attend the duty from 1999 till 2009 and had raised Industrial Dispute in the year 2009 was taken into account and also the fact that the petitioner

was silent from 1999 till 2009 and did not show any sufficiently good reason for not attending duties and not raising the dispute immediately after he was removed from service by the Depot Manager. The 4th respondent, however, directed the A.P.S.R.T.C. to pay off the past service benefits to the petitioner from 1978 to 1998 and directed the Depot Manager to issue fresh appointment as Junior Assistant.

11. Assailing the same, the present Writ Petition is filed.

12. The counsel for petitioner stated that petitioner was subsequently given a fresh appointment as Junior Assistant on 26.12.2011, and the petitioner also retired from the said job on attaining the age of superannuation on 31.05.2012.

13. The counsel for petitioner contended that 4th respondent ought not to have denied reinstatement with continuity of service and backwages and that petitioner ought to have been granted the said benefits also.

14. I am unable to agree with the said contention for the reason that there is no material to show that the leave sought by petitioner were granted by the competent authority and also because no satisfactory reason is given why the petitioner, whose services were terminated on 09.12.1998, did not approach the 4th respondent will 2009, ten years later. This shows that the petitioner had no inclination to work from 1998 to 2009, and the respondents cannot be made liable for payment

of backwages to him particularly when the finding of the 4th respondent that the charge is proved, is not liable to be interfered with.

15. For the aforesaid reasons, I am of the opinion that the 4th respondent was right in denying continuity of service and other consequential benefits also to petitioner.

16. I therefore do not find any merit in the Writ Petition and is accordingly dismissed. No order as to costs.

17. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 20.12.2018

Ndr/*

