

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.12471 of 2012

ORDER:

This Writ Petition has been filed by petitioner i.e., the Andhra Pradesh State Road Transport Corporation challenging the award dt.07-07-2011 in I.D.No.198 of 2010 of the 2nd respondent (Labour Court).

2. The 1st respondent was employed as Shramik in the petitioner-Corporation in 1992.

3. On 20-10-2009 Ex.M-2 charge memo was issued to him stating that he altered the bills and misappropriated Rs.400/- with a cheating attitude and tarnished the image of the petitioner Corporation, which constitutes misconduct under Regulation 28 of the APSRTC Employees (Conduct) Regulations, 1963.

4. Disciplinary enquiry was conducted, in which the 1st respondent was found guilty. Ex.M-4 is the domestic enquiry report, on the basis of the same, on 04-01-2010, punishment of removal was imposed on 1st respondent by the Depot Manager, APSRTC, Allagadda under Ex.W-1.

5. Challenging the same, the 1st respondent filed an application under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short “the Act”) seeking reinstatement into service with continuity of

service, back-wages and all other attendant benefits. The same was numbered as I.D.No.198 of 2010.

6. The 1st respondent's case was that he did not commit any misconduct as alleged in the charge. He contended that he was a Shramik and had no relation with the bills and Exs.W-2 and W-3 clearly indicate that the bills correctly mentioned the amounts, and the same were also passed by the concerned authorities. He stated that due to ignorance, he thickened the letters and numbers in the bills since they were not clearly legible and he cannot be punished for that. He also contended that punishment of removal from service was excessive.

7. Before the Labour Court, the 1st respondent marked Exs.W-1 to W-3 while the petitioner marked Exs.M-1 to M-14.

8. The Labour Court passed an award on 07-07-2011 in I.D.No.198 of 2010 setting aside the order dt.04-01-2010 passed by the petitioner imposing punishment of removal on 1st respondent and consequently the appellate and reviewing authority orders and directed reinstatement of 1st respondent into service without back-wages.

9. The Labour Court observed in the award as under:

“9. During the course of arguments the learned counsel for the petitioner brought the attention on the Ex.W-2 and W-3. Ex.W-2 is the local repairs extract copy signed by the Security Head Guard, APSRTC, Allagadda Depot. Ex.W-3 is the statement issued by the Superintendent (Matls), APSRTC,

Allagadda Depot with regard to Local Repair of Imprest amount paid by Allagadda Depot as per records. Wherein the actual bills amounts were mentioned. Since the bills are with correct amounts and there is no need to punish the petitioner to the extent of removal from service.”

10. It thus concluded that the 1st respondent is innocent, that his duties have no connection with the alleged misconduct and he is entitled to reinstatement into service but without back-wages, attendant benefits on the principle of no work no pay.

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

12. On 26-04-2012 while admitting the Writ Petition, this Court granted interim suspension of the impugned award except to the extent of reinstatement.

13. Though the 1st respondent in the Writ Petition has been served, there is no representation on his behalf.

14. Learned Standing Counsel for the petitioner Corporation contended that the award passed by the 2nd respondent cannot be sustained and the Labour Court has no jurisdiction to interfere with the quantum of punishment imposed by the disciplinary authority.

15. This contention is without any merit because under Section 11-A of the Act, the Labour Court has got ample power to interfere with the quantum of punishment imposed by the disciplinary authority.

16. Alternatively, he contended that the interference with the decision of the disciplinary authority can only be done by the Labour Court when findings arrived at the enquiry are perverse and there is no such perversity.

17. In the instant case, though the issue about validity of the domestic enquiry was framed, the said issue was not decided. Both parties marked documents, on the basis of which, the 2nd respondent proceeded. While this practice of the 2nd respondent is not proper, on that count, no interference is warranted since 2nd respondent did consider the evidence adduced by the parties and in particular Exs.W-2 and W-3 and recorded a finding that the actual bill amounts which were mentioned were in fact correct amounts and there is no alteration of the bills or misappropriation. This finding cannot be said to be perverse or based on no evidence. Once the bills are found to reflect correct amounts, the 1st respondent cannot be said to be guilty of misconduct or misappropriation or intention to cheat the petitioner Corporation. Therefore, the 2nd respondent was justified in interfering with the quantum of punishment and setting aside the order of removal passed by the petitioner as confirmed by the appellate and review authorities and direct reinstatement of 1st respondent into service with continuity of service by denying back-wages and attendant benefits also.

18. Therefore, I see no merit in the Writ Petition warranting interference by this Court under Article 226 of the Constitution of India.

19. Accordingly, the Writ Petition fails and it is dismissed. No costs.

20. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-11-2018

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