

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.16961 OF 2018

Dated:04.06.2018

Between:

The Regional Manager,
APSRTC (Now TSRTC),
Karmnagar Region,
Karimnagar and another

.. Petitioners

And

S. Shankaraiah, aged about 67 years,
Dy. Supdt. (F) Retired A.O. (A&I) Office,
Karimnagar Region, Karimnagar,
R/o.H.No.1-2-275, Old Bazaar,
Karimnagar District

.. Respondent



The Court made the following:

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ORDER:

Respondent was working as Junior Assistant (Personal Department). A charge sheet was laid against the respondent alleging, (i) he failed to pre-audit incremental arrears calculating sheets submitted by the Depot Manager and (ii) for having received the arrears calculating sheets directly without entering into the DAK register and without marking by the Unit Officer and dept pending upto 15.09.2003. It appears that Anti-Corruption Bureau laid trap on allegation of demand and acceptance of illegal gratification and disciplinary proceedings were simultaneously initiated against the respondent and Deputy Superintendent, by name, Sri S. Shankaraiah. The disciplinary proceedings resulted in imposing punishment of withholding annual increments for a period of 18 months with cumulative effect by order dated 08.02.2007. Against the Deputy Superintendent also, the same punishment was imposed. However, on filing appeal, punishment against him was modified to that of 12 months. On the grievance of the respondent, the Government of Andhra Pradesh referred the dispute to the Labour Court for consideration. The reference reads as follows:

“... Whether the Executive Director (Hyd & Krmr Zones), MGBS, Hyderabad is justified in imposing the modified punishment of postponement of annual increment due as on 01.02.2006, for a period of 12 months only to Sri S. Shankaraiah, E-41167, Dy. Superintendent? If not to what relief is the workman is entitled to?”

2. On consideration of the evidence on record, the Labour Court found that the findings of the enquiry officer were without any basis and therefore set aside the punishment. The Labour Court observed that punishment imposed amounts to victimization. The award was passed on 08.01.2015.

3. In this Writ Petition, the petitioners challenge the said award. There is no satisfactory explanation as to why the award is challenged at this distance of time.

4. Even assuming that there is merit in the contention of learned counsel for the petitioners that once charge is proved Labour Court could not have interfered with punishment, it is to be seen that the order of punishment was passed on 08.02.2007, whereas employee retired from service on 31.08.2007 i.e., within six months from the date of the order whereas the punishment imposed was withholding the increment for a period of 18 months. Further, there cannot be retrospective punishment and therefore on this ground alone, the punishment imposed cannot be sustained. Furthermore, as per the reference by the Government and as seen from the record, a lesser punishment is imposed on the higher authority and there is no satisfactory explanation as to why a severe punishment was imposed against lower employee. Thus, on this ground also the punishment is not sustainable. Moreover, no grounds are urged against finding of fact recorded by the Labour Court, within the parameters of judicial review against award of labour court. Only within limited parameters judicial review can be undertaken against the award passed by the Labour Court in exercise of power of judicial review. This Court cannot sit

as an appellate Court and re-evaluate the evidence. As noted above, the Labour Court has categorically recorded that the finding of the enquiry officer is not based on the evidence on record. This being a finding of fact writ court cannot reappreciate the evidence to upset said finding. Therefore, I do not see any error in the decision arrived at by the Labour Court warranting interference by this Court.

5. The Writ Petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, filed in this Writ Petition shall stand closed.

Date:04.06.2018

KH

P. NAVEEN RAO, J

