

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2283 OF 2010

ORDER :

The petitioner was working as Assistant Depot Clerk. Disciplinary proceedings were initiated against petitioner alleging that he consumed alcohol and fell near depot garage under the influence of alcohol, while performing duty at 16.30 hours on 21-09-2006 thus committed misconduct. Disciplinary proceedings resulted in imposing punishment of removal from services. Petitioner raised Industrial Dispute under Section 2-A(2) of Industrial Disputes Act, 1947 (for short "the Act") in the Labour Court-II, Hyderabad in I.D.No.108 of 2007. The Labour Court partly allowed the claim and directed consideration of period from date of removal till date of superannuation for calculation of retirement benefits. The Labour Court denied back wages and other attendant benefits. Challenging this award to the extent of denial of back wages and other attendant benefits, this writ petition is filed.

2. Heard learned counsel for the petitioner and learned Standing Counsel for the respondent-Corporation.

3. It is not in dispute that the petitioner was found in drunken condition, while he was on duty. He was shifted to area hospital, Kama Reddy where the Medical Officer examined the petitioner and certified that he consumed Alcohol and that he was in drunken condition. The Security Guard at the depot found petitioner falling in front of gate of depot garage and the same was reported to the competent authority. The only defense of petitioner was that he was suffering from stomach pain. Therefore, he intimated the same to higher authorities and Security Guard and left the garage. With

help of his friends, he went to a private hospital for treatment and Doctor advised him to take rest and on the advise of the Doctor, he went to his friend's room, which was near to the depot.

4. The Labour Court noticed that except his oral statement, no material was shown in support of his contention that he applied for casual leave on the date of incident. Taking note of this fact, the Labour Court rejected the contention of petitioner that he was not on duty and held that he was found in a drunken condition at the gate of depot. Once the charge against employee that he was in a drunken condition while on duty is proved, it would amount to grave misconduct and would only result in imposing grave punishment. Though evidence on record would clearly support that petitioner was on duty, the Labour Court observed that there is "no evidence to show that the petitioner was not under the influence of alcohol as ADC or not". This observation is contrary to the earlier findings. Based on this observation some relief was granted.

5. Having regard to the facts on record, the petitioner is not entitled for even limited relief granted by the Labour Court. In view of the same, I do not see any error committed by Labour Court in denying the back wages and other attendant benefits and the petition is liable to be dismissed.

6. Accordingly, the writ petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO,J