

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.15459 of 2001

ORDER:

The petitioner is a workman. He filed this writ petition aggrieved by the award of the Labour Court-III, Hyderabad, dated 31.01.1994, passed in I.D.No.466/1992, whereby the Labour Court directed the 2nd respondent to reinstate the petitioner in service with continuity of service by reducing 10 places in the seniority list of the conductors and also denying attendant benefits to him, and due to stigma in service, the Labour Court observed that the petitioner is not entitled for any back wages.

The case of the petitioner is that he was appointed as a Conductor in the respondent Corporation on 28.10.1977. While the petitioner was performing duties as such, on 23.01.1990, a check was exercised by the checking officials and found that the petitioner has committed some cash and ticket irregularities. A charge memo was issued on 23.01.1990. Basing on the charge memo, a charge sheet, dated 10.02.1990 was issued to the petitioner alleging that there is alteration of figures in SR in the tickets numbers and those tickets were re-issued by the petitioner on different dates. The petitioner submitted his explanation on 17.02.1990 denying the charges. The 2nd respondent, not being satisfied with the explanation, got conducted enquiry against the petitioner. Based on the enquiry officer's report, the petitioner was terminated from service on 18.08.1990. Aggrieved by the termination order, the petitioner raised industrial dispute, bearing I.D.No.466/1992.

The Labour Court, having considered the evidence on record along with Exs.M1 to M14, came to a conclusion that removal of the petitioner from service for the charges leveled against him is shockingly disproportionate to the proved misconduct. The Labour Court observed that though the petitioner is alleged to have committed a serious act of misappropriation, but there is no specific charge to that effect. The Labour Court exercising its power under Section 11-A of the Industrial Disputes Act, on consideration of the long length of service that was put in by the petitioner, passed the award, as stated supra.

Sri G.Ravi Mohan, learned counsel for the petitioner, would contend that the Labour Court grossly erred in holding that the charges are proved, that the Labour Court having exercised the power under Section 11-A of the Industrial Disputes Act and that having held that the punishment of removal from service imposed on the petitioner is shockingly disproportionate to the proved charges, denying the back wages, other benefits and placing the petitioner 10 places below in the seniority list of conductors, is illegal and arbitrary.

Sri N.Vasudeva Reddy, learned counsel, appearing for the 2nd respondent Corporation, per contra, while reiterating the averments of the counter filed in this writ petition and the stand taken before the Labour Court, would contend that there is no illegality and arbitrariness in passing the award by the Labour Court, which does not call for interference. He would further contend that on considering the evidence on record, the Labour Court by taking a lenient view, passed the impugned award.

Having heard the learned counsel for both the parties and having perused the record, I find that the Labour Court on considering the facts and circumstances of the case, and taking into consideration the past long

length of service of the petitioner, passed the impugned award, reinstating the petitioner into service with continuity of service by reducing 10 stages in the seniority list of conductors and also denying attendant benefits. Due to stigma in service, the petitioner is not entitled for any back wages even otherwise on the principle of "No work No pay". As seen from the counter affidavit of the respondent Corporation, the petitioner was suspended for 5 times, awarded punishment of deferment of increments for 12 times, and finally, removed from service for the present cash and ticket irregularity. Though the petitioner is alleged to have committed serious misconduct, the Labour Court, considering the evidence on record, held that there is no specific charge of misappropriation and passed the award, directing reinstatement of the petitioner with continuity of service, but without back wages. This court found that there is no error of fact and law to interfere with the award of the Labour Court.

In view of the above, the writ petition is dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.GANGA RAO,J

Date: 20.06.2018
Dsr