

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL No.1517 of 2018

JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

The Depot Manager of the erstwhile Andhra Pradesh State Road Transport Corporation at Parkal Depot in Warangal District, presently under the control of the Telangana State Road Transport Corporation (TSRTC), is in appeal aggrieved by the order dated 23.08.2018 passed by a learned Judge of this Court dismissing W.P.No.19106 of 2005 filed by him. The cause for grievance in the said writ petition was the Award dated 21.02.2005 passed by the Industrial Tribunal-cum-Labour Court, Warangal, in I.D.No.18 of 2003 in so far as it directed payment of full backwages. By the order under appeal, the learned Judge observed that the Labour Court interfered with the order of punishment in exercise of power under Section 11A of the Industrial Disputes Act, 1947, and held that there was no illegality or irregularity in the Award.

Perusal of the Award reflects that the Labour Court found that the Enquiry Officer had rightly held the first respondent-workman guilty of the misconduct alleged. However, as there was contributory negligence on the part of the motorcyclist who was involved in the accident, the Labour Court applied the doctrine of proportionality and opined that the punishment of removal from service was unduly harsh and onerous. In consequence, the Labour Court directed his reinstatement in service with continuity of service and backwages but visited upon him the lesser punishment of withholding of three annual increments with cumulative effect.

Sri B.Mayur Reddy, learned counsel for the appellant, would point out that having held that the charge against the first respondent-workman was partly proved, the Labour Court ought not to have directed payment of full backwages to him.

In the light of the law laid down by the Supreme Court in DEEPALI GUNDU SURWASE v. KRANTI JUNIOR ADHYAPAK MAHAVIDYALAYA (D.Ed.)¹ and, more particularly, the observations made in para 38.4 thereof, the first respondent-workman would not be entitled to award of full backwages as the Labour Court itself found him guilty to some extent and imposed upon him a lesser punishment.

In that view of the matter, this Court deemed it appropriate to reduce the quantum of backwages payable to the first respondent-workman keeping in mind the fact that he retired from service upon attaining the age of superannuation after his reinstatement pursuant to the Award passed by the Labour Court. Taking into consideration the balance of convenience and to meet the ends of justice, this Court proposed reduction to the extent of 50% of the backwages as the period for which the backwages would be payable is stated to be in the range of four years.

Smt.S.A.V.Ratnam, learned counsel for the first respondent-workman, having obtained instructions, stated that her client was willing to settle for this reduced payment.

Sri B.Mayur Reddy, learned counsel, would also state that he has instructions to the effect that the TSRTC would be satisfied with this reduction.

¹ (2013) 10 SCC 324

The Award dated 21.02.2005 passed by the Labour Court in I.D.No.18 of 2003 and the order dated 23.08.2018 passed in W.P.No.19106 of 2005 are accordingly modified by reducing the backwages payable to the first respondent-workman to 50% of the full backwages awarded. The rest of the Award shall stand confirmed.

The writ appeal is allowed to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

M. GANGA RAO, J

Date: 26.11.2018
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