

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.11162 of 2002

ORDER

Being aggrieved by the Award dated 06.06.2001 passed in I.D.No.31 of 1998 by the 2nd respondent-Labour Court, Guntur, whereby the 2nd respondent reinstated the 1st respondent-workman with continuity of service and with full back wages, the present writ petition is filed by the petitioner-APSRTC.

The brief facts of the case are that initially, the 1st respondent was appointed as Cleaner in the petitioner-Corporation in the year 1991. Thereafter, he was re-designated as temporary Conductor in the year 1995. While so, the Duty Controller received a complaint against the 1st respondent stating that he was involved in a case of tearing out MTD 281 chart and burnt the same on 29.07.1996. Pursuant to the same, preliminary enquiry was conducted by the TI. III, Ongole, who, in turn, submitted a report stating that the 1st respondent had taken MTD 281 chart pertaining to the dates from 29.07.1996 to 30.07.1996 and torn the same. After considering the entire material available on record coupled with enquiry report, the disciplinary authority came to the conclusion that the 1st respondent was liable for the misconduct and disengaged his services *vide* proceedings dated 01.08.1996.

The appeal and the revision preferred by the 1st respondent were rejected *vide* orders dated 20-11-1996 and 10-11-1997 respectively. Challenging the same, the 1st respondent raised an Industrial Dispute being I.D.No.31 of 1998 before the Labour Court, Guntur.

Before the Labour Court, the 1st respondent-workman was examined as WM1 and Ex.W1 was marked on his behalf. On behalf of the petitioner-Corporation, MWs.1 and 2 were examined and Ex.M1 was marked.

The Labour Court having found that no enquiry was conducted before passing the termination order, passed the impugned Award on 06.06.2001 ordering reinstatement of the 1st respondent-workman with continuity of service and with full back wages, observing as under:

“If an order has been passed by way of punishment and it is punitive in nature, it is the duty of the respondent to hold regular departmental enquiry and they could not have terminated the service of the applicant by paying him retrenchment compensation and held that punishment imposed by the respondent is not legal and valid. In the present case, even though it is alleged in Ex.M1 that the termination of service of the applicant is for a misconduct. For the misconduct, it is the duty of the respondent to conduct an enquiry before terminating the service of the applicant. Admittedly, Admittedly, no enquiry was conducted before termination of service of the applicant. The respondent has tried to establish the allegation by adducing evidence before this Court, but they failed to establish the same even before this Court. Therefore,

the allegations made in Ex.M1 were not established against the applicant. Hence, the said termination is not legal and valid. Since the termination of service is not legal and valid, the applicant is entitled to be reinstated into service with continuity of service and with full back wages. The respondent Law Officer contends that the applicant is duly a casual conductor. As such he is not entitled for any relief. Even though the applicant is a casual conductor, he has put in more than one year of continuous service. As such, he has attained the status of temporary employee. Since the termination of service is not legal and valid, he is entitled for reinstatement into service with continuity of service and with full back wages.”

Questioning the same, the present writ petition is filed.

Learned Standing Counsel appearing for the petitioner-Corporation submits that the 1st respondent-workman was a casual conductor and based on the preliminary enquiry, his services were disengaged and the Corporation is at liberty to disengage the services of a temporary employee; since the 1st respondent-workman is a temporary employee, service regulations of the Corporation are not applicable to him and as such, no regular departmental enquiry needs to be conducted against him; and hence, the Award passed by the Labour Court is erroneous and against the provisions of the Industrial Disputes Act, 1947.

Per contra, Sri M.Ravindranath Reddy, learned counsel appearing for the 1st respondent-workman, would contend that

though the 1st respondent was engaged on casual basis, subsequently, he was re-designated as temporary conductor in the year 1995; that on the complaint of the Duty Controller that the 1st respondent-workman indulged in a case of tearing out MTD 281 chart and burning the same on 29.07.1996, preliminary enquiry was conducted by TI.III, behind the back of the 1st respondent and the disciplinary authority passed the order disengaging him from service; that no regular departmental enquiry was conducted before terminating his services, which amounts to violation of principles of natural justice and service regulations of the Corporation; that without considering the grounds, the appellate authority as well as the revisional authority, in proper perspective, rejected the same; that being aggrieved by the said termination order, the 1st respondent-workman raised industrial dispute before the Labour Court, which, in turn, after appreciating the oral and documentary evidence placed before it, allowed the same by reinstating the 1st respondent-workman into service with continuity of service and full back wages and that there is no apparent error in the Award passed by the Labour Court and it needs no interference by this Court.

As can be seen from the record, it appears that the 1st respondent-workman was alleged that he was indulged in the

case of tearing out MTD 281 chart and burning the same on 29.07.1996. The disciplinary authority, based on preliminary enquiry, which was conducted behind the back of the 1st respondent, terminated the services of the 1st respondent-workman, without conducting regular departmental enquiry. The petitioner-Corporation failed to prove the allegation levelled against the 1st respondent-workman before the Labour Court though the Labour Court had given opportunity to lead the evidence. The Labour Court came to the conclusion that the petitioner-Corporation had not produced any record to show that the 1st respondent-workman indulged in tearing out MTD 281 chart and burning the same on 29.07.1996, and rightly held that the dis-engagement/termination of the 1st respondent-workman is illegal and ordered his reinstatement into service with continuity of service and with full back wages. Hence, this Court is of the considered view that there is no illegality or irregularity in the Award passed by the Labour Court and it needs no interference by this Court.

Accordingly the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.GANGA RAO

25th July, 2018
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