

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.1801 of 2016

Date: 13.02.2020

Between :

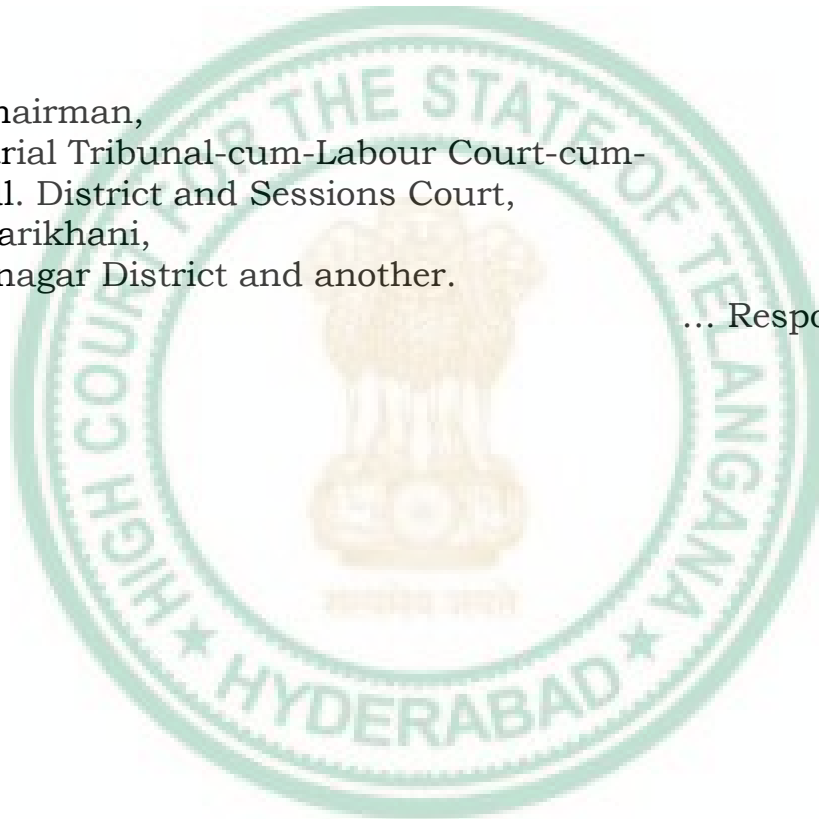
The Depot Manager,
APSRTC, Jagtial and others.

... Petitioners

AND

The Chairman,
Industrial Tribunal-cum-Labour Court-cum-
VI Addl. District and Sessions Court,
Godavarikhani,
Karimnagar District and another.

... Respondents



The Court made the following :

HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.1801 of 2016****ORDER:**

Disciplinary proceedings were initiated against respondent No.2 on the allegation of failure to observe the rule 'issue and start' and cash and ticket irregularity, inasmuch as, having received Rs.10/- from the passenger, he did not issue the ticket. The said Disciplinary proceedings ended in imposing the punishment of removal from service, vide order dt.07.07.2009 issued by Depot Manager, APSRTC, Jagtial, which was confirmed in appeal by the Deputy Chief Manager, APSRTC, Karimnagar, vide order dt.18.08.2009. However, the Revisional Authority modified the said punishment by directing reinstatement into service and ordered to treat appointment of respondent No.2 as a fresh Conductor, vide proceedings No.PA/19(29)-2009-RM, KRMR, dt.18.09.2009. Against the said order dt.18.09.2009 of the Regional Manager, Karimnagar, a dispute was raised on failure of conciliation proceedings resulting in reference of the matter for adjudication to the Labour Court, Warangal, by the Government vide proceedings No.C1/2040/2011, dt.03.08.2011. The said reference, which was numbered as I.D.No.48 of 2011, reads as under:

“Whether the Regional Manager, APSRTC, Karimnagar, is justified imposing the modified punishment of reinstatement into service as afresh on Sri V. Muralidhar, E.No.320314, Conductor, vide proceedings No.PA/19(29)-2009-RM, KRMR, dt.18.09.2009.”

2. The Labour Court went into the evidence on record and *prima-facie* found that the allegation of collecting money from the passenger and not issuing the ticket was not proved. However, the primary issue for consideration before the Labour Court was, whether the Revisional Authority can impose the punishment of reinstatement as a fresh Conductor is permissible. The Labour Court, vide Award dt.25.08.2014 in I.D.No.48 of 2011, found that no such punishment can be imposed and, therefore, directed to treat reinstatement of respondent No.2 as reinstatement in continuation of his service and to grant continuity of service, restoration of his basic pay, attendant benefits and seniority. However, the Labour Court denied payment of back wages to respondent No.2. Challenging the said Award dt.25.08.2014, present writ petition is filed by the petitioner Corporation.

3. Heard learned Standing Counsel for the petitioner Corporation as well as the learned Government Pleader for Labour appearing for respondent No.1, and Sri V. Narasimha Goud, learned counsel for respondent No.2.

4. Learned Standing Counsel for the petitioner Corporation sought to contend that as the Labour Court did not find fault

with the conducting of disciplinary proceedings, it could not have gone into re-appreciation of evidence recorded in the domestic enquiry and held that the charge is not proved and, therefore, the impugned Award dt.25.08.2014 is liable to be set aside on this ground alone. Learned Standing Counsel for the petitioner Corporation further submits that the allegation levelled against respondent No.2 is grave in nature, therefore, as a matter of compassion, the punishment of removal from service was modified to that of appointment as a fresh Conductor and since such order was passed as a matter of compassion, the Labour Court ought not to have interfered with the said order.

5. This Court need not delve into the aspect, whether there was any evidence on record to sustain the charges levelled against respondent No.2. The fact remains is that the Revisional Authority did not view that the delinquency of respondent No.2 is grave enough to impose the punishment of removal from service and, therefore, modified the said punishment to that of reinstatement into service and ordered to treat appointment of respondent No.2 as a fresh Conductor.

6. The only issue for consideration before the Labour Court and in this writ petition before this Court is, whether the Revisional Authority can impose the punishment of appointing a Conductor as a fresh candidate?

7. This issue is no more *res integra*. The very issue came up for consideration before this Court and on a consideration of the relevant provisions of Disciplinary and Appeal Regulations of the Corporation, vide order dt.25.11.2015 in W.P.No.37079 of 2015, this Court held that in exercise of disciplinary and appellate jurisdiction, no authority can impose a punishment, which is not prescribed in the Service Regulations. The Service Regulations do not prescribe imposing punishment of treatment of a candidate's appointment as a fresh candidate, in modification of the punishment of removal from service.

8. In view thereof, the punishment imposed by the Revisional Authority, which was subject matter of reference before the Labour Court, is unsustainable. Once the Court comes to a conclusion that the punishment imposed is unsustainable, corollary to such a declaration would be to grant all other benefits flowing out of setting aside the order. The Labour Court is vested with the discretion to pass appropriate orders with regard to the issue involved in a case before it in view of the provision contained in Section 11-A of the Industrial Disputes Act, 1947. Thus, no case is made out for interference against the view expressed by the Labour Court in the Award dt.25.08.2014 in I.D.No.48 of 2011 warranting interference by this Court.

9. Accordingly, this writ petition is dismissed. Interim order granted by this Court on 05.08.2016 shall stand vacated. No order as to costs.

10. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P. NAVEEN RAO

13.02.2020.
Msr



HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.1801 of 2016



13.02.2020
Msr