

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT PETITION No.15186 OF 2004

ORDER:

This Writ Petition has been filed praying to issue a writ in the nature of writ of certiorari calling for the records in I.D.No.35 of 2002 on the file of Industrial Tribunal-cum-Labour Court, Godavarikhani, dated 03.12.2002 published vide G.O.Rt.No.2572, dated 17.12.2002 in refusing to grant relief of continuity of service and backwages and quash the same by declaring as illegal, arbitrary, unconstitutional and consequently grant the relief of continuity of service and backwages.

2. The petitioner was appointed as a cleaner on 29.03.1989 in the first respondent Corporation. The petitioner was entrusted with the duty of handing over of vehicle bearing No. AP 9Z 6579 for complete overhauling from the first respondent depot to zonal work shop, Karimnagar. On 11.09.2000, the petitioner handed over the vehicle bearing No. AP 9Z 6579 in the said depot. The Security Inspector submitted a report to the authorities stating that there was a theft of radiator committed by the petitioner. Based on the said report of the Security Inspector, the first respondent issued a charge sheet No.M1/802(3)/2000-MNCL dated 15.09.2000 framing the following charges and placing the petitioner under suspension:-.

- I) For having removed the radiator of vehicle No.AP 9Z 6579 outside the zonal workshop, Karimnagar, after physical inspection by ZWS:KR and kept in a Hotel situated outside of the ZWS:KR which shows your dishonest/resulting theft and constitutes misconduct vide clause No.X of Reg. 28 of APSRTC employees (conduct) Regulations, 1963.
 - II) For having brought the vehicle No.AP 9Z 6579 for complete overhauling in the ZWS:KR on 11.09.2000 at about 17.50 Hrs. On running without radiator, which shows your wilful damage of the engine of the vehicle and constitute misconduct vide clause No.XIII of Reg.28 of APSRTC Employees (conduct) Regulations, 1963.
 - III) For having handover the vehicle AP 9Z 6579 in ZWS:KR on 11.09.2000 without Radiator through you have taken over the vehicle with Radiator through you have taken over the vehicle with Radiator as per 58-A at Mancherla depot which shows your interpret habit resulting theft vide clause (XVI) & (X) of Reg.28 of APSRTC, Employees (conduct) Regulations, 1963.
 - IV) For having paid Rs.80.00 to Sri A.V.P. Reddy SMG of ZWS.karimnagar so as to pass the vehicle AP 9Z 6579 into ZWS: Karimnagar without Radiator, which shows your interperate habit constitutes misconduct vide clause No.XVI of Reg.28 of APSRTC, Employees (conduct) Regulations, 1963.
3. The petitioner having received the Charge Sheet has not submitted any explanation. Domestic enquiry was conducted and enquiry officer held that the charges levelled against the petitioner stand proved and

petitioner was removed from service. Questioning the same, the petitioner preferred appeal on 15.03.2001 and review on 30.11.2001 and the same were rejected. Thereafter, petitioner raised Industrial Dispute vide I.D.No.35 of 2002 on the file of the Labour Court, respondent No.2 herein. After considering the entire material evidence, the Labour Court modified the punishment and directed reinstatement of petitioner without back wages and without continuity of service, withholding annual increment for a period of one year with cumulative effect.

4. Challenging the orders of the Labour Court in I.D.No.35 of 2002, the first respondent Corporation filed Writ Petition No.14962 of 2003. Pending adjudication of the said writ petition, the petitioner filed the present writ petition challenging the award passed by the Labour Court to the extent it partly allowed the Industrial Dispute by directing reinstatement into service without back wages and without continuity of service and withholding of one annual increment with cumulative effect.

5. A counter affidavit has been filed by the first respondent stating that the petitioner was involved in theft of property of first respondent Corporation. Basing on the report of the Security Inspector, a charge sheet was issued and enquiry was conducted strictly adhering to the principles of natural justice. The petitioner was found involved in grave misconduct and all the charges levelled against the petitioner have been

proved. The Labour Court without appreciating the evidence has erroneously allowed the Industrial Dispute in directing reinstatement of the petitioner into service and aggrieved by the same, the corporation filed writ petition No.14962 of 2003.

6. I have carefully considered the submissions made by the respective counsel and also perused the records.

7. The disciplinary authority has taken into consideration the evidence adduced before the enquiry officer to return finding that the charges levelled against the petitioner stand proved. The Labour Court exhaustively considering the evidence held that there is evidence to show that the petitioner was involved in theft of property. The Labour Court found charges 1 to 3 are proved and the petitioner was involved in theft. The Labour Court, having held the charge of grave misconduct proved, exercised discretion and awarded lesser punishment.

8. Questioning the said discretionary order, the respondent Corporation filed Writ Petition No.14962 of 2003. This Court after considering material and arguments of the learned counsel upheld the findings recorded by the Labour Court and dismissed the writ petition.

9. Further, the Labour Court found that the charges levelled against the petitioner were of serious nature and did not record the finding that

the punishment was harsh or disproportionately excessive but curiously interfered with the punishment only on the ground that the petitioner admitted his guilt in writing and he deserves a lenient view for imposition of lesser punishment. Reinstatement directed is a consequence of imposition of lesser punishment and neither backwages nor continuity of service nor consequential benefits follow as a natural or necessary consequence of such reinstatement.

10. For the aforesaid reasons and in view of the Labour court not recording the findings that the removal order was illegal and invalid and merely exercised its discretion and awarded the lesser punishment. Therefore, I have not seen any merits in this writ petition to grant reliefs as prayed for.

11. Resultantly, the Writ Petition fails and is accordingly dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs

.10.2022
KNR

C.V.BHASKAR REDDY, J

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October, 2022

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