

[ 3252 ]

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**  
(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF JANUARY  
TWO THOUSAND AND TWENTY THREE

**PRESENT**

**THE HONOURABLE MRS JUSTICE SUREPALLI NANDA**

**WRIT PETITION NO: 19254 OF 2006**

**Between:**

V.L. Narayana, S/o.Raghupathi Rao Ex-Sharamik, R/o.H.No.20-63/118, Indiranagar Colony, New Paloncha, Khammam District.

**...PETITIONER**

**AND**

1. The Hon'ble Industrial Tribunal-cum- Labour Court, Warangal, rep. by its Presiding Officer.
2. A.P.S.R.T.C. represented by its Depot Manager, Manuguru Bus Depot, Khammam District.

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ order or direction more particular one in the nature of writ of Certiorari and after calling for the records in I.D.No.25/2003, dated 22.2.2006 on the file of the Hon'ble 1st respondent in denying continuity of service, attendant benefits and back wages to the petitioner is illegal, arbitrary and unjust consequently set aside the award in I.D.No.25/2003 dt. 22.6.2006 by granting continuity of service, attendant benefits and back wages to the petitioner.

**Counsel for the Petitioner: SRI. G. RAVI MOHAN**

**Counsel for the Respondent No.1: GP FOR LABOUR**

**Counsel for the Respondent No.2: SRI GADDAM SRINIVAS (SC FOR TSRTC)**

**The Court made the following: ORDER**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

**W.P. No. 19254 of 2006**

**ORDER:**

Heard the learned counsel for the petitioner, the learned Standing Counsel for TSRTC and also the learned Government pleader for Labour.

**2. The writ petitioner filed the present writ petition seeking the following relief:**

*".....It is prayed to issue Writ, Order or direction more particular one in the nature of Writ of Certiorari and after calling for the records in I.D.No.25/2003, dated 22.02.2006 on the file of the Hon'ble 1<sup>st</sup> respondent in denying continuity of service, attendant benefits and back wages to the petitioner is illegal and arbitrary and consequently set aside the award in I.D.No.25/2003, dated 22.06.2006 by granting continuity of service, attendant benefits and back wages to the petitioner and pass such other order or orders as this Hon'ble Court may deems fit and proper."*

**3. Learned Standing Counsel representing respondents, filed counter, in particular paragraphs No.7 and 8 read as under:**

*"7. The averments made in Para 5 of the affidavit is not true and correct, hence denied. The respondent submits that the Dy.Superintendent (Mech) of Manugur depot reported that the petitioner was absent for his duties without any intimation to his immediate superiors. Basing on the report of the Dy.Superintendent (Mech) of Manugur, the petitioner was issued with a chargesheet. After receipt of his explanation, the case was referred to the Enquiry officer to conduct a detailed enquiry. The Enquiry officer after conducting detailed enquiry into the case, submitted his report. Basing on that, he was issued with a show-cause*

notice of removal from service dated 16.04.2002 and on receipt of his explanation dated 21.05.2002, the entire case was perused together with explanation and the order removing him from service was issued on 16.06.2002. The Enquiry Officer gave all reasonable opportunities to the petitioner to defend his case and to submit evidences to consider his case. As such, no violation of natural justice was caused as contemplated by the petitioner.

8. The Respondent submits that the petitioner approached the appellate authority against the findings passed by the Enquiry officer dated 10.06.2002. The appellate authority also rejected the appeal of petitioner as he failed to submit evidence so as to consider his case."

**4. The relevant portion of the Award passed in Industrial Dispute No.25 of 2003, dated 22<sup>nd</sup> day of February, 2006 by the Industrial Tribunal-cum-Labour Court at Warangal, at paragraph No.10 reads as under:**

10. The charge against the petitioner is that due to absence of the petitioner the corporation sustained loss due to cancellation of services, but no evidence has been adduced on behalf of the respondent to show that in view of the absence of the petitioner the buses were cancelled. Always there will be reserve staff for sending them to duty in the absence of an employee. Hence it cannot be said that some services were cancelled due to absence of the petitioner. The proceedings of the respondent shows that having been influenced by the subsequent conduct of the petitioner, the petitioner was removed from service. The proceeding read that due to the absence of the petitioner there was dislocation of services and it also caused inconvenience to the travelling public, besides loss of revenue and reputation of the corporation. But there is no such evidence to adduce on behalf of the management, at the time of the domestic enquiry, since the petitioner alone was examined to substantiate the cause for absenteeism. Apart from it the proceeding also read that after issuing show cause notice, the management wanted to give some chance to him, but again the petitioner was absent from his duty from 16.02.2002 to 27.03.2002 without any intimation. It shows taking into consideration the subsequent conduct of the petitioner the impugned removal order has been passed, but for the subsequent conduct of the petitioner no domestic enquiry was conducted. It was not ascertained as to why he was absent from the petitioner since absent in attending duties from 16.02.2002 to

*27.03.2002. But however the removal order has been passed taking into consideration the subsequent absenteeism. The management being influenced by the subsequent absenteeism removed the petitioner. The enquiry proceedings also indicate that since the petitioner failed to produce the report given by him to the police about the theft, they came to the conclusion that the petitioner was unauthorisedly absent. But the enquiry was conducted on the date on which the charge sheet was issued to him."*

**5. A bare perusal of the contents of the Para no.10 (extracted above) of the Award passed in Industrial Dispute No.25 of 2003, dated 22<sup>nd</sup> day of February, 2006 by the Industrial Tribunal-cum-Labour Court at Warangal clearly indicate that, there is a clear finding arrived at by the Industrial Tribunal-cum-Labour Court, that the punishment of removal imposed against the petitioner was shockingly disproportionate and further a very clear finding arrived at in favour of the petitioner that no reasonable opportunity was given to the petitioner since the enquiry was conducted on the date on which charge sheet was issued to the petitioner. This Court opines that the finding of the Industrial Tribunal-cum-Labour Court, Warangal District arrived at in the present case, that it is a fit case to give an opportunity to the petitioner to serve the department but as a measure of punishment it is fit case to order**

the respondents to appoint the petitioner as "Fresh Shramik," is neither fair, just nor reasonable and is in fact self-contradictory. Having clearly observed in its order that the removal order had been passed against the petitioner taking into consideration the subsequent absenteeism admittedly as borne on record there had been no enquiry into the alleged absenteeism. Therefore, the order impugned challenged by the petitioner i.e. the order of removal dated 10.06.2002 before the Industrial Tribunal-cum-Labour Court at Warangal is the one passed in clear violation of principles of natural justice and is therefore, arbitrary and un reasonable.

6. Taking into consideration the above referred facts and circumstances and in particular the findings arrived at para '10' in favour of the petitioner in the Award passed in Industrial Dispute No.25 of 2003, dated 22.02.2006 by the Industrial Tribunal-cum-Labour Court at Warangal, the Writ petition is allowed and the order passed by the Industrial Tribunal-cum-Labour Court at Warangal, dated 22.02.2006 vide

Industrial Dispute No.25 of 2003 to the extent of denying continuity of service to the petitioner and attendant benefits is set aside and the respondents are directed to grant continuity of service and attendant benefits to the petitioner, in accordance to law, within a period of (4) weeks from the date of receipt of copy of this order, duly communicating the decision to the petitioner. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble the Chief Justice UJJAL BHUYAN, on this Wednesday, the Fourth day of January, Two Thousand and Twenty Three.

SD/- N. CHANDRA SEKHAR RAO  
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Presiding Officer, Hon'ble Industrial Tribunal-cum- Labour Court, Warangal.
2. The Depot Manager, A.P.S.R.T.C., Manuguru Bus Depot, Khammam District.
3. One CC to Sri G. Ravi Mohan, Advocate [OPUC]
4. Two CCs to GP for Labour, High Court for the State of Telangana at Hyderabad. [OUT]
5. One CC to Sri Gaddam Srinivas, SC FOR TSRTC [OPUC]
6. Two CD Copies

CHR  
GJP

✓

HIGH COURT

DATED:04/01/2023

ORDER

W.P.No.19254 of 2006



ALLOWING THE WRIT PETITION  
WITHOUT COSTS

⑨

PM

25/1/23