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Managing Director, APSRTC and Another Vs B. Narasimhulu and Another

Writ Appeal No''s. 437 and 646 of 2010

Court: Andhra Pradesh High Court

Date of Decision: July 30, 2013

Citation: (2013) 5 ALT 161

Hon'ble Judges: Ashutosh Mohunta, J; A. Rajasheker Reddy, J

Bench: Division Bench

Advocate: H. Venugopal, S.C. for APSRTC in W.A. 437 of 2010 and Mr. S.M. Subhan, in W.A. No. 646 of 2010, for the Appellant; H. Venugopal, S.C. for Respondent Nos. 1 and 2 in W.A. No. 646 of 2010, Mr. S.M. Subhan, Counsel for the 1st respondent in W.A. 437 of 2010 and G.P. for Labour for Respondent No. 2 in W.A. No. 437 of 2010 and R-3 in W.A. No. 646 of 2010, for the Respondent

Final Decision: Dismissed

Judgement

Ashutosh Mohunta, J.
These two Writ Appeals involve a similar and identical issue and hence, they are being disposed of by this common

judgment. Writ Appeal No. 437 of 2010 is preferred by the Andhra Pradesh State Road Transport Corporation ("APSRTC" for brevity) assailing

the order dated 19.04.2010 passed in Writ Petition No. 22254 of 2006 whereby a learned single Judge of this Court while setting aside the award

of the Labour Court dated 17.5.2006 made in I.D. No. 50 of 2004 directed reinstatement of the respondent-workman in service without

continuity of service and back wages; whereas, Writ Appeal No. 646 of 2010 is preferred by the workman being aggrieved to the extent of not

granting continuity of service and back wages.

2. The workman, who is the appellant in Writ Appeal No. 646 of 2010 was appointed as a Conductor in the APSRTC. While so, he was charge-

sheeted on account of the alleged "ticket and cash" irregularities when he was operating the bus service on 24.2.2003 on the route "Zaheerabad to

Kakkaravad". After conducting a regular departmental enquiry, he was removed from service. Aggrieved thereby, he moved the Labour Court by

raising I.D. No. 50 of 2004 which ended in dismissal. Thereupon, he approached this Court by filing Writ Petition No. 22254 of 2006 which was

partly allowed through the order under appeal as afore-stated. Being aggrieved by the grant of reinstatement of the workman in service, the

APSRTC preferred W.A. No. 437 of 2010, whereas having been aggrieved by the denial of back wages and continuity of service, the workman

preferred W.A. No. 646 of 2010.

3. The learned Standing Counsel for the APSRTC contended that inasmuch as disciplinary authority of APSRTC and Labour Court found that the

workman was responsible for the alleged misconduct, the learned Single Judge should not have interfered with such findings, but shown some

lenience towards the workman and ordered his reinstatement in service, which is contrary to the well settled principles of law. He pointed out that

the charges levelled against the workman were proved beyond any doubt, and in fact, they were very serious in nature, and thereby the APSRTC

has lost its total credibility and confidence in the workman, and as such, he has lost his legitimate right to continue in service any more. He

therefore, prayed that Writ Appeal No. 437 of 2010 may be allowed duly dismissing Writ Appeal No. 646 of 2010 preferred by the workman.

4. On the other hand, the learned Counsel for the workman, who is appellant in WA. No. 646 of 2010 mainly submitted that while ordering

reinstatement of the workman in service, the learned Single Judge failed to appreciate the evidence brought on record in the right perspective in so

far as denial of back wages and continuity of service to his client. He submitted that once the order of the removal from service was found

unsustainable, the learned single Judge should have awarded continuity of service as well as full back-wages, but the learned single Judge failed to

do so. He asserted that the learned single Judge also fell in error in considering the fallacy in the Award of the Labour Court and thereby

erroneously ordered for reinstatement as a fresh conductor foregoing seventeen years of experience in the APSRTC. He asserted that his client has

no intention to fraud his employer and, in fact, the passengers have shown wrong tickets at the relevant point of time in order to escape from fine

and punishment that may be imposed by the checking officials against them. He also submitted that the punishment imposed by the disciplinary

authority and affirmed by the Labour Court including the modified punishment awarded by the learned Single Judge is harsh. He therefore seeks

this Court to interfere with the said punishment imposed upon his client. He therefore prayed that the appeal preferred by his client may be allowed

duly dismissing Writ Appeal No. 437 of 2010 preferred by the APSRTC.

5. Perused the record.

6. It is obvious from the material on record that the workman while conducting the bus service at the relevant point of time collected Rs. 35/- from

five passengers at the rate of Rs. 7/- each and issued invalid tickets, out of which, four tickets issued were accounted at stage No. 1 and the

another ticket already issued was accounted at stage No. 9. It was further alleged against the workman that he had closed the ticket numbers of all

denominations in SR without completing the ticket issue exercise. Though the checking officials failed to check the cash bag of the workman to tally

the price money of the sixteen passengers who were originally issued valid tickets at that point of time, one of the TTI in his cross-examination

deposed that sixteen passengers were possessing valid tickets and five passengers in question were possessing invalid tickets; the veracity of said

cross-examination of the said TTI official remains un-shattered. Further, the checking officials recorded the statements of the so called five

passengers in the presence of the workman, who also acknowledged the same and the so called invalid tickets were also seized from them. In his

explanation, the workman has not pleaded that the so called passengers have wrongly shown some other tickets. On the other hand, he requested

for excuse and stated that due to ill-health, he had issued such tickets. In the light of the above, the contention of the learned Counsel for the

workman in regard thereto cannot be countenanced. Thus it has come in the evidence that the workman had issued invalid tickets with a mala fide

intention to defraud the revenue of his employer-APSRTC Having regard to these facts and circumstances of the case, the disciplinary authority as

well as the Labour Court held that the workman committed misconduct, which is serious in nature in terms of the APSRTC rules and regulations.

However, the learned single Judge considering the past conduct of the workman and the length of service put in by him, took a lenient view in the

matter, which in our considered view, does not call for any interference in these appeals having due regard to the facts and circumstances of the

case.

7. Further, It may be noticed that normally interference with the Award of the Industrial Tribunal is not justified unless the same is arbitrary or illegal

or irrational. In the case on hand though the Disciplinary Authority as well as the Tribunal having due regard to the facts and circumstances of the

case, had right in coming to the conclusion that the workman committed misconduct which is serious in nature, and accordingly imposed

punishment of removal from service, however, the learned single Judge, as stated supra, exercising jurisdiction under Article 226 of the

Constitution took a lenient view in the matter being in mind his conduct and the past service put in by the workman, and ordered his reinstatement

in service as a fresh conductor, but without back wages and continuity of service while recording a finding that the removal of the workman was

disproportionate to the charges held and proved against him.

8. The learned single Judge was rather liberal in granting the relief to the appellant considering the facts and circumstances of the case. We

therefore do not find any valid and legitimate ground to interfere with the order under appeal for granting either back wages or continuity of service.

9. Viewed from any angle of the matter, the contention of the learned Standing Counsel for the APSRTC seeking to set aside the impugned order

and the contention of the learned Counsel for the workman seeking to grant back wages and continuity of service cannot be countenanced for the

reasons mentioned hereinabove.

10. For the foregoing discussion, we do not see any merit in both the Writ Appeals, which are liable to be dismissed. In the result, the Writ

Appeals are dismissed. The miscellaneous petitions if any pending consideration shall stand dismissed. There shall be no order as to costs.