Tirumala Tirupati Devasthanams Vs N. Vasudevaiah

Court: Andhra Pradesh High Court

Date of Decision: Aug. 22, 2016

Citation: (2016) 6 ALT 576 : (2017) 1 AndhLD 306 : (2017) 1 CLR 971

Hon'ble Judges: Sri C.V. Nagarjuna Reddy and Sri G. Shyam Prasad, JJ.

Bench: Division Bench

Advocate: Mr. M.V. Pratap Reddy, Advocate, for the Respondent No. 1; Government Pleader for Labour (TS), for the Respondent Nos. 2 and 3; Mr. A.K. Jayaprakash Rao, Advocate, for the Appellant

Final Decision: Disposed Off

Judgement

Sri C.V. Nagarjuna Reddy, J. - A chronic unauthorized absentee was shown undue lenience by the Labour Court by setting aside his dismissal

order and ordering his reinstatement, albeit without back wages but with continuity of service. The award of the Labour Court passed muster of

the learned Single Judge.

2. The admitted facts are that respondent No. 1, who joined the service of the appellant in the year 1967, got his services confirmed from

01.03.1970. He was habituated to absent himself unauthorisedly on many occasions and it is not in dispute that several penalties were imposed

upon him for such unauthorized absence. Not learning lessons from the past, he continued his habit of unauthorized absence and abstained from

duties without prior permission from 04.01.1978 to 20.01.1978. Due to his absence, there was severe disruption of Tappal work, which was

entrusted to him. Having suffered severe disruption of work on account of negligent act of respondent No. 1, the appellant issued charge memo

dated 24.02.1978. Respondent No. 1 continued to display his indifference by not even choosing to reply to the charge memo. However, an

enquiry was held, during which, he failed to offer his explanation in spite of taking time. In the enquiry, respondent No. 1 did not deny the charges.

The disciplinary authority, while coming to the provisional conclusion that respondent No. 1 deserves dismissal, passed an order on 02.12.1978

providing him an opportunity to submit his explanation. In his written explanation, respondent No. 1 admitted his guilt and prayed for mercy.

Considering the conduct of respondent No. 1 and his habitual nature of unauthorized absence causing serious disruption to the administration, the

appellant passed order, dated 30.07.1979, dismissing respondent No. 1 from service.

3. Respondent No. 1, who continued to display his lethargy and laid back approach, failed to question the order of dismissal for more than 12

years. He leisurely filed an appeal on 30.08.1991 before the Board of Directors, which rightly dismissed the appeal, mainly on the ground of delay.

After keeping quiet for four years, respondent No. 1 approached the Industrial Tribunal-cum-Labour Court, Anantapur, by way of I.D.No.172 of

1996. One of the grounds on which the appellant resisted the I.D. was enormous delay and laches on the part of respondent No. 1 in availing the

legal remedies. The Labour Court, however, brushed aside this ground and ordered reinstatement of respondent No. 1, without back wages but

with continuity of service. This order was unsuccessfully challenged by the appellant before the learned Single Judge.

4. After hearing Mr. A.K. Jayaprakash Rao, learned standing counsel for the appellant - Tirumala Tirupati Devasthanams and Mr. M.V. Pratap

Reddy, learned counsel for respondent No. 1, we are of the opinion that both the Labour Court as well as the learned Single Judge fell into a

serious error in showing consideration in favour of respondent No. 1. The law is well settled that a person, who sleeps over his right, is not entitled

to any indulgence by the Courts. As discussed by the learned Single Judge, in a catena of judgments, the Supreme Court held that while there can

be no hard and fast rule or fixed formula of universal application regarding denial of the relief on the ground of delay, the factum of delay needs to

be considered with reference to the facts of each case. In S.M. Nilajkar and Telecom, District Manager, (2003) 4 SCC 27, the Supreme

Court held that though there is no limitation prescribed for reference of disputes to an Industrial Tribunal; even so it is only reasonable that the

disputes should be referred as soon as possible after they have arisen and after conciliation proceedings have failed. The decisions of the Supreme

Court galore holding that a person who is not diligent in availing his remedies and fails to approach the Courts within a reasonable time is liable to

be non-suited on the ground of laches. (See State of Madhya Pradesh v. Bhailal Bhai, AIR 1964 SC 1006, Tilokchand Motichand v. H.B.

Munshi, (1969) 1 SCC 110, P.S. Sadasivaswamy v. State of Tamilnadu, (1975) 1 SCC 152, Roshan Lal v. International Airport

Authority, AIR 1981 SC 597 and D.D.A. v. Rajendra Singh, (2009) 8 SCC 582)

5. Having regard to the position of law as discussed above and the conduct of respondent No. 1, we have no hesitation to hold that the Labour

Court committed a serious error in entertaining the I.D. 12 years after the dismissal of respondent No. 1, without there being any justifiable reason

whatsoever. The Labour Court ought not to have revived a stale claim at the instance of respondent No. 1 and ordered his reinstatement. Indeed,

the conduct of respondent No. 1 shows that he had no devotion to duty and the indiscipline he had shown by unauthorisedly absenting himself

frequently made the administration suffer. The Labour Court ought to have remembered that the employer has unfettered discretion to deal with the

in disciplined employees and that only when the employer''s actions are contrary to the provisions of the Industrial Disputes Act, 1947 (for short

''the Act''), that it can interfere with the same. If the Labour Court or for that matter the superior Courts show misplaced sympathies towards the

employees, who failed to show their devotion to duty and displayed gross indiscipline, it will become difficult nay, impossible for the employer to

run the administration in a proper, effective and efficient manner. The misconduct of respondent No. 1 in unauthorisedly absenting himself not only

for the period between 04.01.1978 and 20.01.1978, for which the charge memo was issued but also his subsequent absence even during the

pendency of enquiry till 21.04.1978 has been proved without any pale of doubt. Therefore, there was absolutely no warrant for the Labour Court

to show indulgence as it did to respondent No. 1. The learned Single Judge, in our opinion, also did not examine the issue from the right

perspective and confirmed the award of the Labour Court.

6. In the light of the above discussion, we are of the opinion that the award of the Labour Court and the order of the learned Single Judge

confirming the said award cannot be sustained in law and they are, accordingly, set aside. At the hearing, it is brought to our notice that during the

pendency of the writ petition, respondent No. 1 was paid wages as per Section 17B of the Act and that he has already reached the age of

superannuation. We make it clear that the wages already received by respondent No. 1 shall not be recovered by the appellant.

7. Subject to the above directions, the Writ Appeal is allowed.

8. As a sequel to allowing the writ appeal, W.A.M.P. No. 1848 of 2016 filed by the appellant for interim relief shall stand dismissed as

infructuous.