

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTYNINTH DAY OF OCTOBER  
TWO THOUSAND AND FOUR

**PRESENT**

**THE HON'BLE MR JUSTICE GODA RAGHURAM**

**WRIT PETITION NO : 1751 OF 1996**

Between:

N.Raja Rao, S/o late Somulu,

Aged 38 years, Occ: Record Tracer,

R/o Macherla, Guntur District.

..... PETITIONER

AND

1. The Labour Court, Guntur,

rep. by its Presiding Officer.

2. The Depot Manager, APSRTC,

Sattenapalli Depot, Sattenapalli,

Guntur District.

3. The Divisional Manager,

APSRTC, Narsaraopet,

Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the 1<sup>st</sup> respondent and issue a writ, order or direction, particularly one in the nature of Writ of Certiorari and quash the Award of the 1<sup>st</sup> respondent in I.D.No. 4 of 1993 dated 20.3.1995, published on 5.6.1995, in so far as

denying the petitioner continuity of service and back wages as illegal, unjust, contrary to law and perverse; and grant all consequential benefits.

**For the Petitioner: Mr. A.K. Jayaprakash Rao, Advocate (Not appeared)**

**For the Respondent No.1: Government Pleader for Labour**

**For the Respondents Nos.2&3: Mr. R.Manmadha Reddy, Standing Counsel for APSRTC**

**The Court Made the Following :**

### ORAL ORDER

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Heard learned counsel for the respective parties.

A partially unsuccessful workman aggrieved by the Award dated 20.3.1995 in ID No. 4/93 of the Labour Court, Guntur, has filed this writ petition. The petitioner joined the APSRTC (the Corporation) as an Office Boy in 1976 and was promoted as a Record Tracer in 1978. He was removed by an order of the Depot Manager, Sattenapalli, dated 10.6.92 after a due process of departmental enquiry into two charges levelled by a charge memos dated 10.2.92 and 12.3.92 alleging unauthorised absence during 29.1.92 and 7.2.92 and again during 4.3.92 to 12.3.92. The order of removal was passed by the disciplinary authority taking into consideration the petitioner's past record of service also, which exhibited a similar conduct of spells of unauthorised absence. The petitioner also admitted his unauthorised absence in reply to a show cause notice issued, before the impugned order of removal was passed. Even after the disciplinary proceedings were initiated the petitioner is shown not to have improved his attendance and had absented during May and June 1992. As against the order of removal dated 10.6.92 the petitioner preferred a departmental appeal, which was also rejected. Thereupon he instituted an ID u/Sec.2A(2) of the Industrial Disputes Act 1947.

The Labour Court found no infirmity in the procedure of departmental enquiry and

also affirmed the conclusion of the petitioner's guilt in respect of charges of unauthorised absence levelled against him. However, in exercise of the plenitude of its jurisdiction u/Sec.11A of the ID Act, the Labour Court came to the conclusion that the extreme penalty of removal from service was disproportionate grossly to the allegations levelled and found against the petitioner and consequently set aside the punishment and directed that reinstatement as fresh recruit would meet the ends of justice. Consequently the respondent-Management was directed to reinstate the petitioner as a fresh recruit without back wages and without continuity of service.

Alleging that even the substituted punishment awarded by the Labour Court is grossly disproportionate to the misconduct alleged and found against him, the writ petition is filed.

The service record of the petitioner including what has been considered and recorded by the Labour Court discloses regular spells of unauthorised absence by the petitioner during his course of service with the respondent. He appears to be a habitual unauthorised absentee. In fact in respect of two of the spells of unauthorised absence he was charged and found guilty in the departmental enquiry and imposed the punishment of removal from service. The Labour Court having taken a lenient view substituted the penalty with one directing reinstatement into service as a fresh recruit.

In the considered view of this court the petitioner is not entitled to any further latitude for his misconduct. There are no merits in the writ petition. The writ petition is accordingly dismissed. No costs.

Date: 29.10.2004 -----

Pvsn Justice G.Raghuram

Copy to

1. The Labour Court, Guntur,

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2. The Depot Manager, APSRTC,

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3. The Divisional Manager,

APSRTC, Narsaraopet,

Guntur District.

4. Two Copies to the Government Pleader for Labour, High Court Buildings,  
Hyderabad (OUT)

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