

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.22239 OF 1995

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DATED: 31-10-1995

BETWEEN

E. Srinivasa Rao, S/o. Sailoo,
Occ: Mechanic, R/o.2-3-9/A,
Kattela Mandi, Boiwada,
Karimnagar.

...PETITIONER

AND

The Chairman & Presiding Officer,
Industrial Tribunal cum Labour Court,
Godavarkhani and others.

...RESPONDENTS

ORDER:

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This writ petition has been filed seeking a direction in the nature of Writ of Certiorari calling for the records relating to the award passed in I.D.No.123 of 1990 dated 14.02.1994 by the Chairman, Industrial Tribunal cum Labour Court, Godavarikhani and quash the same.

During the pendency of the writ petition the petitioner died and his legal representatives were brought on record as petitioners 2 to 5.

It is the case of the petitioner that he was initially appointed as a cleaner in APSRTC and while working at Asifabad depot he absented himself from duty on 03.02.1984. The Assistant Mechanical Foreman submitted a report to the Depot Manager, APSRTC, Asifabad and basing on the said report a charge sheet dated 13.04.1987 was issued to the petitioner along with all its enclosures. The petitioner submitted his explanation and the

explanation being unsatisfactory, the petitioner was further provided with an opportunity to defend his case and prove his innocence. Thereafter a detailed enquiry was ordered wherein it was held that the charge of unauthorized absence was proved and accordingly after issuing a show cause notice dated 20.01.1988 the petitioner was removed from service by order dated 10.03.1988. Aggrieved by the said order the petitioner raised an industrial dispute in I.D.No.123 of 1990 under Section 2-A(2) of the Industrial Disputes Act (for short 'the Act') before the Industrial Tribunal cum Labour Court, Godavarikhani and the Tribunal by award dated 14.02.1994 while upholding the charges that were proved against the petitioner in the domestic enquiry interfered with the punishment and directed for the appointment of the petitioner as 'Fresh-Mechanic' with a pay of 80% for the first one year and thereafter to pay the full salary. Aggrieved by the same, this writ petition has been filed.

The charges that were framed in the domestic enquiry are that the petitioner absented from duty unauthorizedly from 03.02.1984 till date without applying leave or sick leave or any permission for the absence. The petitioner was applying leave frequently, reporting sick causing inconvenience to the maintenance work and supplying of buses due to his negligence towards duty and that the petitioner violated the notice instructions that he should be prompt in attending duties.

It is further stated that, in fact, the petitioner was previously censured for three times and his pay was also reduced five times and he was not having a clean record. In fact, the petitioner did not contest the domestic enquiry and accepted the charges that were proved against him but only contended with regard to the quantum of punishment. Having regard to the facts and circumstances of the case, the Tribunal took a lenient view and while setting aside the order of removal directed the respondents to appoint the petitioner as fresh mechanic.

I am of the opinion that the tribunal having directed the respondents to appoint the petitioner as fresh mechanic, there was no justification to cut 20% of the salary for a period of one year. Therefore, the cut of 20% of the salary as ordered by the Tribunal after appointment of the petitioner, as fresh mechanic, is not just and proper.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the respondents to pay the remaining 20% of the salary for the period of first one year for which the petitioner worked to his legal representatives and whatever the arrears on the said 20% of the salary shall not have any effect on the terminal benefits. There shall be no order as to costs.

V. ESWARAI AH, J

October 31, 2006
DSK