

**THE HON'BLE Ms. JUSTICE G.ROHINI**  
**And**  
**THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR**

**WRIT APPEAL No.212 OF 2011**

**Dated: 31.07.2012**

Between:

The Asst.Traffic Manager

..

Appellant

And

Smt. K.S.Lalithakumari and another

..

Respondents

**THE HON'BLE Ms. JUSTICE G.ROHINI**  
**And**  
**THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR**

**WRIT APPEAL No.212 OF 2011**

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**JUDGMENT:** (Per Hon'ble Ms. Justice G.Rohini)

The Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation'), which is the unsuccessful petitioner in Writ Petition No.3995 of 2007 is the appellant before us.

We have heard Sri C.Sunil Kumar Reddy, the learned Standing Counsel for the Corporation as well as Sri S.Pradeep Kumar, the learned counsel appearing for the 1<sup>st</sup> respondent.

As could be seen from the material available on record, the 1<sup>st</sup> respondent herein, who was working as a booking clerk in the Corporation, was removed from service by order dated 29.12.2000 on two charges of misconduct which were held to be proved. However, by virtue of the award passed by the labour Court in I.D.No.28 of 2002 filed under Section 2-A (2) of the Industrial Disputes Act, 1947, the punishment of removal was modified and reinstatement with 50% back wages was ordered. Aggrieved by the same, the Corporation filed Writ Petition No.3995 of 2007. The said writ petition was dismissed by the

learned Single Judge by order dated 17.06.2009. Hence, the present appeal by the Corporation.

At the outset, it is to be noticed that the charges of misconduct were levelled against the 1<sup>st</sup> respondent herein on the ground that she was unauthorisedly absent for a period of 19 days from 04.04.2000 to 22.04.2000 and that she was irregular in attending the duty for the period from 25.05.1999 to 21.04.2000 for a period of 167 days. Though the said two charges were held to be proved by the enquiry officer and consequently, the order of removal came to be passed on 29.12.2000, having taken into consideration the fact that the workman was suffering from blood cancer and that she was under treatment in various hospitals including the Government Hospital, Malakpet, Osmania General Hospital, Hyderabad, M.N.J.Hospital, Hyderabad and Government Ayurvedic Hospital, Hyderabad, the labour Court thought it fit to direct reinstatement with 50% back wages.

The fact that the 1<sup>st</sup> respondent herein is suffering from blood cancer is not disputed before us. Therefore, the labour Court cannot be said to have committed any error in modifying the punishment.

In fact as held in **Krushnakant B. Parmar v. Union of India** [\[1\]](#), unless it is proved that the absence is wilful, it does not amount to misconduct.

Hence, the labour Court was justified in setting aside the order of removal and directing reinstatement with continuity of service, 50% back wages and attendant benefits for the break period. The discretion exercised by the Tribunal under Section 2-A (2) of the Industrial Disputes Act, 1947 was in accordance with law and the same was rightly confirmed by the learned Single Judge. We do not find any justifiable reason to interfere with the same.

Accordingly, the Writ Appeal is dismissed. No costs.

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**G. ROHINI, J**

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**C.PRAVEEN KUMAR, J**

Date: 31.07.2012  
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[\[1\]](#) (2012) 3 Supreme Court Cases 178