

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON:09.01.2013

DATED: 30.04.2014

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.46029 of 2002

Union of India
rep.by Chief Electrical Workshop Engineer
Southern Railway
Perambur, Chennai-600 023. Petitioner

vs.

1.The Presiding Officer
Central Government Industrial
Tribunal-cum-Labour Court
Madras.

2.K.Munuswamy Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Certiorari to call for the records of the impugned order in I.D.No.348 of 2001, dated 09.09.2002, from the file of the Industrial Tribunal, Tamil Nadu, Chennai, quash the same.

For Petitioner : Mr.V.G.Suresh Kumar

For Respondents : R1-Court
Mr.Gowardhan
for M/s.Row & Reddy for R2

O R D E R

The petitioner Union is part and parcel of Southern Railway, which is a Central Government Organization. The second respondent was working as Technician (ELF)-Grade-III under the control of SSE/E/LW/PER. While so, the second respondent joined with two persons, namely, V.Devaraj and A.Anthonydoss, and damaged the plants in the nearby garden of SSE/E/LW/PER with knives. When the senior official, namely, P.Muralikrishna, SE/E/LW/PER, who was in-charge of the shop enquired about the abnormal behaviour, the second respondent along with the other two persons, entered into office of the said Muralikrishna in a drunken state and assaulted

him, which resulted in injury with profuse bleeding and they have also damaged the furniture and property in the office of SSE/E/LW/PER leading to a loss of property worth about Rs.3,000/- approximately. Subsequently, the second respondent was issued with a charge sheet for penalty of removal.

2. Further, they submit that after due enquiry, the second respondent was removed from service with effect from 16.10.1998 by the Disciplinary Authority and the Appellate Authority as well as the Revisional Authority confirmed Authority confirmed the penalty of removal. Similarly, the other two persons were also removed from service. Even in those two cases, the penalty of removal was confirmed by the Appellate Authority as well as by the Revisional Authority. Aggrieved by the said order of removal from service, the second respondent raised an industrial dispute in I.D.No.348 of 2001, before the first respondent, after hearing both sides, by the impugned Award, dated 09.09.2002, directed the petitioner Union to reinstate the second respondent with effect from 17.10.1968 with backwages, by following the decision of the Central Administrative Tribunal, Chennai, in O.A.s.Nos.1055 of 1999 and 1198 of 1999, wherein the Tribunal directed the administration to reinstate the other two persons, namely, V.Devaraj and A.Anthonydoss and to hold a denovo enquiry. However, in the case of the second respondent, the first respondent had not ordered for denovo enquiry.

3. The petitioner Union further submit that in such circumstances, since no direction was given to hold denovo enquiry to ensure uniformity in procedure, they filed an application before the first respondent seeking permission to initiate fresh proceedings against the second respondent stating that pursuant to the directions given by the Central Administrative Tribunal, Chennai, in O.A.s.Nos.1055 of 1999 and 1198 of 1999, the other two persons, namely, V.Devaraj and A.Anthonydoss were placed under suspension from 17.10.1998 in terms of Rule 5(4) of the Railway Servants (Discipline & Appeal) Rules, 1968. But, the first respondent, by docket order dated 02.12.2002, returned the papers stating that there is provision to entertain such a petition. Therefore, they have filed this writ petition seeking the relief as stated above.

4. The highly competent counsel Mr.V.G.Sureshkumar, appearing for the petitioner submits that the 2nd respondent herein was working as Technician under the petitioner's concern. The 2nd respondent had joined with two other persons and damaged the plants with knives. The 2nd respondent and two others had entered into the office and assaulted one Muralikrishna, due to which he sustained injuries. All the three persons had made wrongful entry in a drunken mood and assaulted the said Muralikrishna and also damaged the furniture belonging to the petitioner's management. Therefore, the enquiry was conducted and the misbehaviour of the 2nd respondent was proved and hence he was removed from service.

5. The very competent counsel Mr.Gowardhan, appearing for the 2nd respondents submits that the alleged misbehaviour of the 2nd respondent with two persons, have not been proved. Further, the injured person had not been examined before the Labour Court and also no medical records were produced. Regarding damage of Railway property worth about Rs.3,000/- which has been allegedly damaged by the 2nd respondent is also not proved. Further, the management has made serious allegations against the 2nd respondent herein, but no criminal case has been levelled against the 2nd respondent. Further, the petitioner had not conducted a comprehensive enquiry and the 2nd respondent was removed from service in an arbitrary manner. The 1st respondent had framed necessary issues and passed the impugned order and directed the management to reinstate him and ordered them to pay backwages from the date of removal from service.

6. On considering the facts and circumstances of the case and arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court does not find any discrepancy in the impugned award passed by the 1st respondent. Hence, the above writ petition is dismissed. Consequently, the award passed by the 1st respondent is confirmed. No costs.

Sd/-
Deputy Registrar

True Copy

Sub Assistant Registrar

To

The Presiding Officer,
Central Government Industrial
Tribunal-cum-Labour Court,
Madras.

Vgi(co)
krd 20/7

Pre-Delivery Order

in

W.P.No.46029 of 2002

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