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Rajesham K. Vs. Depot Manager, Apsrtc

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Court : Andhra Pradesh

Decided On : Aug-21-1996

Reported in : (1998)IIILLJ901AP

Judge : P. Venkararama Reddi and ;S.R. Nayak, JJ.

Acts : Industrial Disputes Act, 1947; Constitution of India - Article 226

Appeal No. : W.P. No. 17200/1988

Appellant : Rajesham K.

Respondent : Depot Manager, Apsrtc

Advocate for Def. : A. Vyjayanthi, S.C.

Advocate for Pet/Ap. : V. Sreeranga Rao, Adv.

Disposition : Petition dismissed

Judgement :

S.R. Nayak, J.

1. The petitioner who is working as Conductor in the services of the A. P. State Road Transport Corporation (for short the 'Corporation') has filed this writ petition praying for quashing the proceedings of the Depot Manager dated November 11, 1988.

2. Few facts which are relevant for the purpose of disposal of this writ petition be noted as under:

The petitioner was working as a contract employee. His services were dispensed with by the Depot Manager by his proceedings dated July 15, 1985 after finding that the petitioner was guilty of commission of certain irregularities in the matter of cash and tickets maintenance. It seems that against the said action of the Depot Manager dated July 15, 1985, the petitioner preferred an appeal to the Divisional Manager. The Divisional Manager, Kareemnagar by his proceedings dated January 1, 1987 directed re-engagement of the petitioner on daily wages. Consequently, the petitioner was re-engaged by the Depot Manager. In the counter filed by the Depot Manager, it is stated that the Divisional Manager while directing re-engagement of the petitioner on daily wage basis specifically permitted the Depot Manager to take disciplinary action against the petitioner in respect of the misconduct committed by him earlier while he was working at Korutila Depot, in view of that specific permission, the Depot Manager issued a charge-sheet dated January 21, 1987 to the petitioner. The charge-sheet contains two charges which read as under:

'1) For having issued lower denomination tickets No. 044/898355 and 356 of Rupee one denomination to a batch of two passengers who are found travelling with the above tickets from Gandhi-Hanuman temple and bound for Metpally ex-stages 13/14 to 16, though having already collected requisite fare of Rs. 1.50 ps. each at the boarding point itself.

2) For having closed the ticket tray No. of all denominations up to stage No. 14 i.e. point of check without accounting above tickets issued.'

3. The Depot Manager not being satisfied with the explanation offered by the petitioner proceeded to hold enquiry by appointing an Enquiry Officer. The petitioner participated in the enquiry. Thereafter, the Depot Manager by his proceedings dated November 11, 1988 issued the second show-cause notice-cum-final order proposed. At that stage, the present writ petition was filed in this Court on November 17, 1988 and the petitioner obtained an interim order staying all further proceedings. In the meanwhile, it appears that the Depot Manager by

his proceedings dated November 23, 1988 passed the final order removing the petitioner from service as measure of punishment. The said order also came to be stayed by this Court at the behest of the petitioner.

4. The argument of the learned counsel is that in view of the order made by the Divisional Manager directing the Depot Manager to re-engage the services of the petitioner on daily wage basis as 'Conductor vide proceedings dated January 1, 1987, it was impermissible for the Depot Manager to initiate disciplinary proceedings in respect of the alleged misconduct said to have been committed by the petitioner at an anterior date and therefore, the entire proceedings are liable to be struck down as incompetent and without authority of law. We do not find any merit in this contention. 1 As already pointed out supra, the statement of the Depot Manager in the sworn affidavit that the Divisional Manager while directing reengagement of the petitioner into the services, permitted the Depot Manager to take disciplinary action in respect of the misconduct committed by the petitioner while he was working at Koratla is not denied by the petitioner by filing any reply statement. We have no reason to disbelieve the statement made by a responsible officer of the Corporation on oath. If that is so, it cannot be said that the initiation of the disciplinary proceedings by the Depot Manager is one without jurisdiction. Even otherwise, we do not find any merit in the present writ petition, inasmuch as the; petitioner for the reasons best known to him did not make any grievance at the threshold of the proceedings and he participated in the proceedings initiated by the Depot Manager and only when the Depot Manager issued the second show-cause, notice-cum-proposed final order, he (Petitioner) rushed to this Court to stall further proceedings perhaps apprehending that the order might go against him. Such tendency should be disapproved. The petitioner is admittedly a 'work man' within the meaning of that term under the Industrial Disputes Act and the Industrial Disputes Act is a self contained Code dealing with all grievances of workmen. If the ultimate order in the estimation of the delinquent is not valid or illegal, it is always open to him to approach the Industrial Court and agitate the matter. In a summary proceedings under Article 226. the questions of fact cannot be resolved solely on the basis of affidavits and counter affidavits. On account of unnecessary litigations persuaded by the workman, eight years time is lost depriving both the parties the benefit of industrial adjudication. The final order was passed by the

disciplinary authorities as far back as on November 23, 1988 and on account of the interim order granted by this Court, the workman could not approach the Industrial Court.

5. In the result and for the foregoing reasons, the writ petition fails and it is accordingly dismissed. However, this order shall not come in the way of the workman moving the competent Industrial Tribunal or Labour Court for redressal of his grievance and if such a dispute instituted, if the concerned Industrial Court or Labour Court is directed to entertain the same without reference to the limitation and dispose of the dispute expeditiously. No costs.

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