
(1997) 08 AP CK 0024

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13571 of 1992

APSRTC National Mazdoor Union, Sangareddy

APPELLANT

Vs

APSRTC

RESPONDENT

Date of Decision : 06-08-1997

Acts Referred:

Payment of Wages Act, 1936 — Section 9(2)

Citation : (1997) 6 ALD 530 : (1997) 6 ALT 767 : (1998) 1 AnWR 752

Hon'ble Judges : N.Y. Hanumanthappa, J;Avinash Somakant Bhate, J

Bench : Division Bench

Advocate : A.K. Jayaprakash Rao, for the Appellant; C.V. Ramulu, S.C., for the Respondent

Judgement

N.Y. Hanumanthappa, J.—This Writ Petition is filed seeking a writ, order or direction particularly one in the nature of Writ of Mandamus declaring the action of the second respondent in proceedings No. 01/287(24)/92-SRD, dated 30.9.1992 ordering deduction of penal wage cut for eight days from the salaries of sixty nine Conductors and seventy one Drivers, whose names are shown in the Annexure to the said proceedings and who are members of the petitioner's union for the months of October, 1992 payable on 1.11.1992 apart from two days wages already deducted as illegal, unjust, contrary to law and in violation of principles of natural justice.

2. A few facts which are necessary for disposal of this Writ Petition are that sixty nine Conductors and seventy one Drivers, whose names are shown in the annexure to the impugned proceedings dated 30.9.1992 issued by the second respondent are members of the petitioner-Union. It is stated that on 8.8.1992 some of the employees of the second respondent-Depot were assaulted without any provocation by the employees working in Sridevi Hotel and Balveer Bar. In the assault, some of the employee of the second respondent-Depot were seriously injured and they were admitted in Gandhi Hospital, Secunderabad. Since the second respondent failed to provide protection to his employees and

failed to take any necessary steps against the anti-social elements, the employees of the second respondent-Depot went on strike for two days in protest against the assault by the said anti-social elements. It is further submitted that the second respondent had issued a show-cause notice dated 12.8.1992 and without waiting for the explanation passed orders on 20.8.1992 imposing penal wage cut for eight days. Questioning the said order petitioner-Union filed W.P. No. 10662/1992 before this Court and this Court by judgment dated 2.9.1992 disposed of the said Write Petition setting aside the order dated 20.8.1992 passed by the second respondent and further directed that the second respondent shall take into consideration the explanation submitted by the employees and consider the matter afresh. It is stated that the second respondent, without objectively considering the explanations of the employees, passed the order dated 30.9.1992 ordering recovery of eight days' wages from sixty nine Conductors and seventy one Drivers who were the members of the petitioner-Union. In the explanation submitted by the petitioner-Union it is stated that the provisions of Payment of Wages Act are not applicable, as all the employees are drawing more than Rs. 1600/- per month, but the second respondent without applying his mind, passed the orders dated 30.9.1992 invoking the provisions of S. 9(2)(b) of Payment of Wages Act, 1936, ordering deduction of eight days penal wages from the salaries of the employees. It is further stated that the second respondent had already deducted two days wages on which dates the employees could not perform their duties and therefore the action of the second respondent, in ordering penal wage cut for eight days, is quite illegal and it is nothing but only an act of victimization and unfair labour practice. It is stated that the second respondent, without taking into consideration the proportionality, ordered deduction of eight days wages towards penal wage cut and hence the order dated 30.9.1992 passed by the second respondent is not sustainable in law.

3. The learned Counsel for the petitioner-Union attacked the impugned proceedings dated 30.9.1992 on the grounds (1) when the authorities had deducted the salary/wages payable for two days for the absence of the members of the petitioner-Union, it should not have gone further and imposed a penalty under penal wage cut for eight days; (2) imposition of penal wage cut is illegal and without jurisdiction as the authority, who passed the order, has failed to notice that the members of the petitioner-Union were getting wages more than Rs. 1,600/- per month and thus, the Payment of Wages Act has no application. He further contended that when the Payment of Wages Act is not applicable to the members of the petitioner-Union the authorities should have specified under what provision of law they imposed the penalty of penal wage cut. Imposing penal wage cut in addition to deducting the salary for two days namely, 8.8.1992 and 9.8.1992 would amount to imposition of punishment twice for the same offence which is impermissible in law. The learned Counsel for the petitioner lastly contended that under similar circumstances, this Court in W.P. No. 4346/1992 dated 19.11.1992 which was confirmed in W.A. No. 3/1995, dated

8.4.1996 took the view that there cannot be a penal wage cut unless there is an enquiry and further penal wage cut is not applicable for the employees whose salary is more than Rs. 1,600/- per month.

4. On the other hand, Sri C. V. Ramulu, learned Standing Counsel for the respondents-Corporation contended that imposition of penal wage cut is well within the powers of the authority and it is neither illegal nor without jurisdiction and stoppage of payment of wages for two days has nothing to do with penal wage cut. According to him, stopping the salaries for two days was for the absence of the employees; and the penal wage cut was due to indiscipline behaviour causing lot of inconvenience to the general public and other passengers. Therefore, the action of the respondents-Corporation cannot be said to be illegal. He lastly contended that even if the Payment of Wages Act is not applicable to the members of the petitioner-Union, still the authority has got powers to impose punishment for their indisciplined behaviour, which caused lot of inconvenience to the passengers and public and hence the writ petition is liable to be dismissed.

5. Heard the learned Counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation and perused the record.

6. We find that the Corporation is justified in imposing penal wage cut for eight days as the stoppage of work by the employees of the petitioner-Union caused great inconvenience to the public. The members of the petitioner-Union should have noticed that they are working in an organisation which is meant for public utility. Stoppage of their work will definitely cause lot of inconvenience resulting in paralysing the entire day's activities and causing inconvenience to the public which cannot be compensated. Having undertaken to serve the organisation, which is of public utility in nature, stoppage of work without reasonable cause amounts to indiscipline. In such an event, the authority which has right to hold disciplinary enquiry will have definitely right to impose a punishment in the nature of penal wage cut. Even if the provisions of penal wage cut have no application to the case of the members of the petitioner-Union, still the authority, who passed the order imposing penal wage cut, has got right and jurisdiction to impose such penalty. Such an action cannot be said to be illegal or without jurisdiction. The points now raised in this Writ Petition might not have been brought to the notice of their Lordships at the time of disposal of W.A. No. 3 of 1995. If that was done, the binding would have been otherwise. Therefore, that judgment is not of any help to the petitioners.

7. Accordingly, we do not find any merit in this writ petition. The writ petition is therefore dismissed. No costs.