

(2013) 10 KAR CK 0262

In the Karnataka High Court

Case No : Writ Petition No. 28202 of 2010 (L-KSRTC)

Bangalore Metropolitan Transport Corporation

APPELLANT

Vs

H. Muniyappa

RESPONDENT

Date of Decision : 28-10-2013

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2013) 10 KAR CK 0262

Hon'ble Judges : H. Billappa, J

Bench : Single Bench

Advocate : Javarappa T.K., for Sri. H.M. Muralidhar, of Sri Ranga Associates, for the Appellant; L. Vijaykumar, for the Respondent

Final Decision : Dismissed

Judgement

H. Billappa, J.—In this writ petition under Articles 226 and 227 of the Constitution of India, the petitioner has called in question, the award dated 25.3.2010, passed by the III Addl. Labour Court, Bangalore, in I.D. No. 112/2005, vide Annexure-A. By the impugned award at Annexure-A, the III Addl. Labour Court, Bangalore, has allowed the claim of the respondent and has directed the petitioner to reinstate the respondent into service and to withhold three annual increments with cumulative effect.

2. Aggrieved by that, the petitioner has filed this writ petition.

3. Briefly stated the facts are:

The respondent was working as a Conductor in the petitioner-Corporation. The respondent remained absent for duty unauthorisedly from 1.6.2003 till 31.8.2004. The Disciplinary Authority initiated disciplinary proceedings. Charge sheet was issued on 11.7.2003. The respondent was called upon to submit his explanation within ten days. The respondent did not submit any explanation. Consequently, the Enquiry Officer was appointed. After holding enquiry, the Enquiry officer submitted his report holding that the charges are proved. The

findings of the Enquiry Officer was communicated to the respondent. In his reply, the respondent submitted the same reasons assigned before the Enquiry Officer. Considering the reply and the material on record, the Disciplinary Authority has passed order dated 30.8.2005 dismissing the respondent from service. It was challenged by the respondent before the III Addl. Labour Court, Bangalore, in I.D. No. 112/2005. The III Addl. Labour Court by its award dated 25.3.2010 has allowed the claim of the respondent and has set aside the order of dismissal and has directed to withhold three annual increments with cumulative effect. Aggrieved by that, the petitioner has filed this writ petition.

4. The learned counsel for the petitioner contended that the impugned award cannot be sustained in law. He also submitted that the respondent without any valid reason has remained absent for duty from 1.6.2003 till 31.8.2004 and therefore, the impugned award cannot be sustained in law. He also submitted that the Labour Court has erred while directing reinstatement and therefore, the impugned award cannot be sustained in law.

5. As against this, the learned counsel for the respondent submitted that the impugned award does not call for interference. He also submitted that the respondent was suffering from hemicranial headache which was recurring and has taken treatment for almost an year and therefore the Labour Court has directed reinstatement denying backwages and consequential benefits and directing to withhold three annual increments with cumulative effect. He also submitted that after the award, the respondent was reinstated into service and he has retired from service on 30.4.2012 and therefore, the impugned award does not call for interference.

6. I have carefully considered the submissions made by the learned counsel for the petitioner.

7. The point that arises for my consideration is, Whether the impugned award calls for interference? It is relevant to note, the respondent was working as a Conductor in the petitioner-Corporation. The respondent remained absent for duty from 1.6.2003 till 31.8.2004. Departmental enquiry has been initiated against the respondent. The enquiry has resulted in dismissal of the respondent from service. The respondent has questioned it before the Labour Court. The Labour Court by its award dated 25.3.2010 taking into consideration that the petitioner was suffering from hemicranial headache and the punishment is disproportionate, has set aside the order of dismissal and directed to reinstate the respondent into service denying backwages and consequential benefits and directing to withhold three annual increments with cumulative effect. The backwages and consequential benefits have been denied. After the award, the respondent has been reinstated into service and has retired from service on 30.4.2012. The respondent has produced medical records to show that he was suffering from hemicranial headache and he has taken treatment. The Labour Court taking into consideration that the punishment is disproportionate has directed reinstatement without backwages and consequential benefits and

directing to withhold three annual increments with cumulative effect. In the circumstances, the impugned award does not call for interference. There is no merit in this writ petition and therefore, it is liable to be dismissed.

Accordingly, the writ petition is dismissed.