

(2012) 08 KAR CK 0305

In the Karnataka High Court

Case No : Writ Appeal No. 995 of 2011 (L-KSRTC)

Bangalore Metropolitan Transport Corporation

APPELLANT

Vs

Syed Ahmed

RESPONDENT

Date of Decision : 01-08-2012

Acts Referred:

Citation : (2012) 08 KAR CK 0305

Hon'ble Judges : V. Suri Appa Rao, J;K.L. Manjunath, J

Bench : Division Bench

Advocate : H.R. Renuka, for the Appellant; K.N. Jagadish, for the Respondent

Final Decision : Dismissed

Judgement

K.L. Manjunath, J.—Misc. Civil No. 6444/2011 is filed for condonation of delay of four days in filing the appeal. For the reasons shown in the affidavit, delay of four days in filing the appeal is condoned. Accordingly, Misc. Civil No. 6444/2011 is allowed. The concurrent findings of the Labour Court and the learned single Judge in W.P.No.40925/2010 dated 06.01.2011 are called in question in this appeal.

2. The facts leading to this appeal are as hereunder:

The respondent was working as driver under the Appellant Corporation. On the ground that he did not attend the duty and remained unauthorisedly absent from 08.12.1993 to 24.07.1994

for a period of 07 months. Charge memo was issued and an enquiry was conducted. Thereafter, he was dismissed from the service.

Later, the respondent raised a dispute before the Labour Court as the reference was sent by the Conciliation Officer. The Labour Court having considered the evidence led in by the parties held that the enquiry conducted by the appellant as fair and proper and directed the parties to lead evidence and after the evidence led in by the parties came to the conclusion that the order of dismissal

is an extreme punishment and erroneous and the same is disproportionate to the gravity of charges levelled against him. Accordingly, the Labour Court passed an award setting aside the order of dismissal and modified the same with-holding ensuing two annual increments with cumulative effect and ordered to reinstate the respondent without back wages. This order was questioned by the appellant by filing a writ petition before the learned single Judge. The learned single Judge has held that the Labour Court has rightly considered the delay and latches in seeking reference to the Labour Court. The learned single Judge has also concurred with the view of the Labour Court and came to the conclusion that as the was suffering from illness since long back and there was theft in his family and also there was a death in his family. Accordingly, the Court came to the conclusion that there is no inordinate delay in seeking the reference. Accordingly, the writ petition was dismissed. Having considered the length of service of the respondent with an unblemished record, the learned single Judge concurred with the findings of the Labour Court. This order is called in question in this appeal.

Having heard the Learned Counsel for the appellant, we do not see any merits in this appeal because the main contention of the appellant before us is that, there is an inordinate delay in seeking the reference. The order of dismissal is 1996. The reference is of the year 2003. If the appellant was suffering from illness and if there was an un-natural calamity in his family and when the Labour Court as well as the learned single Judge have concurrently upheld the cause for delay, this Court cannot interfere with such findings of the Court below in intra Court appeal.

Accordingly, the appeal is dismissed. If the respondent has already attained the age of superannuation, the question of re-instatement will not arise as no order of back wages is ordered. What is to be granted by the Petitioner Corporation is only retirement benefits to be calculated upto the age of superannuation.