

(2015) 02 KAR CK 0312

In the Karnataka High Court

Case No : Writ Petition No. 60351/2009 (L-TER)

Divisional Controller NWKRTC

APPELLANT

Vs

Verappa and Others

RESPONDENT

Date of Decision : 13-02-2015

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(4)(A), 11(A)

Citation : (2015) 02 KAR CK 0312

Hon'ble Judges : A.S. Bopanna, J.

Bench : Single Bench

Advocate : Madanmohan M. Khannur, for the Appellant

Final Decision : Disposed off

Judgement

A.S. Bopanna, J.—The petitioner - Corporation is before this Court assailing the award dated 03.05.2008 passed in KID No. 203/2000.

2. The deceased - Conductor, while in service was issued with the article of charges alleging that he had remained unauthorisedly absent from September-1997 till December-1997. An enquiry was held and he was dismissed from service on 20.05.2000. The workman raised a dispute in KID No. 203/2000 by filing a petition under Section 10(4)(A) of the I.D. Act. The Labour Court by its award dated 03.05.2008 has modified the order of punishment and on setting aside the order of dismissal has held that the punishment of withholding of annual increment for the years 1997 and 1998 permanently be imposed as punishment. It has been held that the salary for the period 16.09.1997 to 25.09.1997 would not be payable i.e., for the absence period. But it has directed the petitioner to provide continuity of the service, back wages and other consequential monetary benefits for the periods 20.05.2000 to 02.05.2002 i.e., from the date of dismissal till the date of death of the workman during the pendency of the dispute before the Labour Court.

3. The learned counsel for the petitioner while assailing the award passed by the

Court below would contend that the Labour Court having arrived at the conclusion that the charge has been proved ought not to have interfered with the order. The reason given by the Labour Court for modifying the punishment is not sustainable in law is the contention of the learned counsel.

4. In the light of the contention put forth, a perusal of the award would disclose that the Labour Court no doubt has arrived at a categorical finding that the workman concerned had remained unauthorisedly absent and his contention that he was unwell during the periods September-1997 to December-1997 has not been established and therefore cannot be accepted. However, the Labour Court has proceeded to exercise its discretion under Section 11(A) of the I.D. Act to arrive at the conclusion that the petitioner - Management ought to have imposed a lighter punishment as the dismissal is disproportionate to the misconduct. In a circumstance where the Labour Court has considered this aspect of the matter and has arrived at the conclusion that an alternative punishment was required to be imposed, more particularly in a circumstance where the workman concerned had died during the pendency of the dispute, it would not call for interference.

5. However, what is required to be noticed is that the Labour Court while imposing such punishment had setting aside the dismissal has also directed the payment of back wages. The same would not be justified. In any event for the periods 16.09.1997 to 28.12.1997 as rightly held by the Labour Court, he would not be entitled to the salary for the said period. However, considering that the dismissal was on 20.05.2000 and he died on 02.05.2002, it would only mean that the legal representatives would be entitled to get the benefit of the continuity of service to receive the terminal benefits for the entire period and for the said purpose, the order of the Labour Court is sustained. The petitioner - Management shall therefore accord continuity of service and take into consideration the increments notionally for the purpose of calculating the terminal benefits and pay the terminal benefits to the legal representatives of the deceased - employee, taking into consideration the continuous service from the date he had joined employment till 02.05.2002. However, the monetary benefits by way of back wages for the periods 20.05.2000 to 02.05.2002 would not be payable. The award therefore stands modified to the said extent.

The petition is accordingly disposed of.