

(2012) 12 KAR CK 0089

In the Karnataka High Court

Case No : Writ Petition No. 81608 of 2011 (L-KSRTC)

The Divisional Controller, NEKRTC

APPELLANT

Vs

Channabasappa

RESPONDENT

Date of Decision : 03-12-2012

Acts Referred:

Citation : (2012) 12 KAR CK 0089

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : R.V. Nadagouda, for the Appellant; B.R. Patil and Sri Krupa Sagar Patil, for the Respondent

Final Decision : Dismissed

Judgement

S. Abdul Nazeer

1. This writ petition is directed against the award in Ref. No. 109/2008 dated 19.11.2010 on the file of the Presiding Officer, Labour Court, Gulbarga, whereby the Labour Court has set aside the order of dismissal of the respondent-workman and has directed his reinstatement without any backwages. The Labour Court has further directed continuity of service by withholding two future annual increments with cumulative effect. The respondent had been working with the petitioner-Corporation as a Driver. A charge memo was issued to the respondent alleging that he had remained unauthorisedly absent for duty from 12.10.2003 to 6.2.2004. The workman has filed his reply denying the charges. The disciplinary authority after holding an enquiry has held that petitioner has committed misconduct by remaining unauthorisedly absent from 12.10.2003 to 6.2.2004. Therefore, he was dismissed from service.

2. Feeling aggrieved, the workman sought reconciliation before the State Government. Since the reconciliation failed, the matter was referred to the Labour Court wherein it was numbered as Ref. No. 169/2008. After service of notice, the parties have filed their respective pleadings and on the basis of the

pleadings, the Labour Court has framed the following issues:

- (i) Whether the DE held against the first party by second party is fair and proper?
- (ii) Whether the first party/claimant is guilty of the charges levelled against him?
- (iii) Whether the punishment imposed is proportionate?
- (iv) What order?

3. The parties have let in their evidence before the Labour Court. The Labour Court has held that the enquiry held by the management is fair and proper. The Labour Court has also found that the respondent-workman has committed misconduct. Having regard to the nature of misconduct, the Labour Court held that the punishment imposed is highly disproportionate. That is why the order of dismissal was set aside without any backwages but with continuity of service by withholding two future annual increments with cumulative effect. Having heard the learned Counsel for the parties, I do not find any merit in this case. As has been noticed above, the proved misconduct is unauthorised absence from 12.10.2003 to 6.2.2004. It is not the case of the management that the respondent has committed the grave misconduct of causing financial loss to the Corporation. I am in agreement with the view of the Labour Court that the punishment of dismissal from service was excessive and harsh for the proved misconduct. The Labour Court is right in reinstating the workman without granting any backwages. Withholding two future annual increments with cumulative effect is also just and proper. Writ petition is therefore dismissed without any order as to costs.