

(2014) 01 KAR CK 0219

In the Karnataka High Court

Case No : Writ Petition No. 80132 of 2010 (L-KSRTC)

The Divisional Controller, North West Karnataka Transport Corporation (NWKRTC)

APPELLANT

Vs

Fajal Ahamad

RESPONDENT

Date of Decision : 16-01-2014

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1)(C)(D)

Citation : (2014) 2 AKR 46 : (2014) 141 FLR 388 : (2014) 1 KarLJ 568 : (2014) 1 LLJ 592 : (2014) LLR 546

Hon'ble Judges : Mohan M. Shantanagoudar, J

Bench : Single Bench

Advocate : A.M. Patil, for the Appellant; Prakash S. Maisalgi, for the Respondent

Final Decision : Dismissed

Judgement

Mohan M. Shantanagoudar, J.—The award of the Labour Court, Bijapur in Reference No. 11/2005 dated 24.02.2009 is called in question in this writ petition by the Corporation on the ground of inadequacy of penalty imposed by the Labour Court. Respondent herein who was appointed as Conductor in the year 1979 remained unauthorizedly absent to duties from 19.09.2002 to 28.01.2003. Based on the allegation of charge of unauthorized absenteeism, the enquiry was held and the respondent was held to be guilty of the misconduct. The Disciplinary Authority dismissed the workmen/respondent from service. The workman raised the dispute and the same was referred by the State to the Labour Court for adjudication u/s 10(1)(C)(D) of the Industrial Disputes Act, 1947. The Labour Court having come to the conclusion that the respondent remained absent without intimating to the management, took a lenient view in view of the fact that the respondent was suffering from blood omitting during the relevant period, set aside the order of Disciplinary Authority of dismissal and directed the Corporation to reinstate the workman without back wages, however, with continuity of service and other consequential benefits.

2. Sri A.M. Patil, learned Advocate appearing on behalf of petitioner/Corporation submits that the Labour Court is not justified in taking lenient view in the matter, inasmuch as, the Labour Court ought to have imposed penalty of atleast withholding of increments having regard to the fact that the respondent did not chose to inform the Corporation of remaining absent to duties.

Sri Prakash S. Maisalagi, learned Advocate appearing on behalf of the respondent/workman supports the impugned award of the Court below.

3. Exs. W-1 to W-13 are the medical records pertaining to respondent which reveal that the respondent was suffering from blood omitting and he was admitted to hospital during the relevant period. He underwent various tests during the said period. However, the fault lies with the respondent that he did not intimate the Corporation about he remaining absent from duties because of illness. In this view of the matter, the Labour Court at-least ought to have imposed minor penalty like withholding of increments etc.

On going through the award of the Labour Court and the other material on record supplied by the Advocate to the Court at the time of final argument, I do not find any ground to interfere with the finding of fact arrived at by the Labour Court. However, I find that the Labour Court has taken lenient view in the matter of imposing penalty The Labour Court was of the opinion that no useful purpose will be served in withholding the increment in view of the fact that the respondent/workman was aged more than 56 years at the time of passing the award. Therefore, the Labour Court went ahead to observe that the period of absence shall be treated as leave without pay.

4. Be that as it may, since it is observed by the Labour Court that the workman was aged about 56 years as on 24.02.2009 (the date of the award of the Labour Court), by this time the workman must have attained the age of superannuation. In this view of the matter, I do not propose to impose penalty of withholding of increments inasmuch as the respondent must have already retired from service. In all other respects the award of the Labour Court is just and proper. Hence, no interference is called for. Petition fails and the same stands dismissed.