

A.P.S.R.T.C. Represented by Depot Manager

Vs

K. Pochaiah and Another

Civil Appeal No. 3510 of 1998

(S. P. Bharucha, V. N. Khare JJ)

24.07.1998

ORDER

1. Leave granted.
2. The respondents have been served but have not put in an appearance.
3. The first respondent was employed by the appellants as a driver. He was found to be a habitual absentee. He was issued a charge-sheet for his indiscipline. A domestic enquiry was held. He was found guilty and he was removed from service. He challenged the order of dismissal by raising a dispute under the Industrial Disputes Act, 1947. The second respondent upheld the order of dismissal.
4. The first respondent filed a writ petition in the High Court assailing the order of the second respondent. The High Court said :

"Having perused the impugned award, we hold that the award of the Labour Court is a well-considered one, both in respect of conviction and punishment. However, purely on compassionate grounds, we direct the Corporation to appoint the petitioner as a cleaner afresh, if he is willing, within three months from the date of receipt of the order."

5. The appellants are in appeal by special leave and contend that once the High Court had come to the conclusion that the order of dismissal of the first respondent was justified, it had no jurisdiction or power to issue the direction to appoint the first respondent as a cleaner on compassionate grounds. We are entirely in agreement with the appellants' contention. It is one thing to find that the punishment is disproportionate to the indiscipline and to reduce the severity thereof. It is quite another to hold that the punishment was justified and yet to direct the employer to re-employ the delinquent employee. The High Court does not have the jurisdiction or the power to do so, on compassionate grounds or otherwise.
6. The appeal is allowed. The judgment and order under appeal is set aside insofar as it directs the appellants to reappoint the first respondent in their service. No order as to costs.