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KARNATAKA HC ON EMPLOYEE'S UNAUTHORIZED LONG ABSENCE

A. Introduction

Karnataka HC (“**HC**”), in *Manjunatha* case,¹ held on January 13, 2023, that unauthorized absence of employee for fifteen months is grave misconduct and dismissal is a suitable penalty.

B. Facts

1. Manjunatha M had joined Karnataka State Road Transport Corporation (“**KSRTC**”) as a Driver-cum-Conductor in 2003.
2. On November 11, 2010, it was reported that he remained absent.
3. On issuance of Call Notice in March 2011, he did not respond. Nor did he participate in the enquiry.
4. He failed to provide explanation to a second show-cause notice (“**SCN**”) along with the enquiry officer’s report. Order imposing termination from service as a penalty was passed by the disciplinary authority.
5. Manjunatha challenged the termination vide a reference in Bangalore Labour Court (“**LC**”).
6. LC allowed the reference in 2017, setting aside the dismissal order, and directing his reinstatement with continuity of service and all consequential benefits except back wages. LC also imposed fine of Rs. 5,000, to be deducted from his salary in instalments.
7. Aggrieved, KSRTC appealed² before the HC. Single Bench of the HC allowed the WP vide order dated July 15, 2021 and set aside the award on below grounds:
 - a. LC overlooked Manjunatha’s inability to offer an explanation or medical records during the investigation, or in response to the charge memo and second SCN.
 - b. His unauthorized absence for period of fifteen months based on records (as against his claim of only 52 days) caused financial and work-related problems for KSRTC and inconvenience for the public.
 - c. LC’s decision was based on assumptions and presumptions and that KSRTC had made a case for the dismissal of the employee.
8. Aggrieved by the Single Bench’s order, Manjunatha filed Writ Appeal (“**WA**”) on the ground that his dismissal is arbitrary, and the amount of punishment imposed on him was excessive as his unauthorised absence had only lasted 52 days.

¹ *Sri. M. Manjunatha vs. Karnataka State Road Transport Corporation*, WA (L-KSRTC)773/2021.

² *Karnataka State Road Transport Corporation vs. Sri. M Manjunatha* WP (L-KSRTC) 40651/2017.

C. Judgment & Reasoning:

HC's Division Bench declined to interfere in the decision of the Single Bench and held as follows:

“The appellant [Manjunath] has remained unauthorizēdly absent for a long period of one year and three months. The conduct is a grave misconduct for which a suitable penalty on the appellant has been imposed. The aforesaid penalty cannot be said to be disproportionate.”

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