

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**AND**

**THE HON'BLE MRS. JUSTICE ANIS**

**WRIT APPEAL No.584 of 2015**

**ORDER:** (Per Hon'ble Sri Justice Nooty Ramamohana Rao)

The Depot Manager, Andhra Pradesh State Road Transport Corporation (APSRTC), Narayanpet Depot, Mahabubnagar District, was the appellant in this writ appeal, which is directed against the judgment rendered by learned Single Judge in W.P.No.16582 of 2002. The 1<sup>st</sup> respondent herein was the writ petitioner. He challenged the correctness of the award passed by the Labour Court-Industrial Tribunal III, Hyderabad in I.D.No.50 of 2000.

I.D.No.50 of 2000 has been in turn directed against the order passed by the Depot Manager on 22.12.1998 imposing on the writ petitioner the punishment of removal from service. The order dated 22.12.1998 was confirmed by the Appellate Authority on 29.05.2000. The facts which led to the imposition of punishment was that the writ petitioner, who was working as a conductor, while conducting bus bearing No.AEZ 3163 on 24.03.1998 plying between Narayanpet to Kosgi, was subjected to a surprise check by the Travelling Ticket Inspectors at stage No.7 around 10.00 PM. At that stage, the bus was so full as it was carrying 62 passengers. The TTIs have noticed that 2 of the passengers were just alighting from the bus and when they were checked both of them are travelling without tickets, while the remaining 60 passengers were found travelling with proper tickets. The explanation of the writ petitioner/conductor was that he has collected the fare and issued tickets, but however the passengers may have mislaid them. The fare of the ticket is Rs.2.50/-. Therefore, the differential amount has worked out to Rs.5/-. It is urged by the conductor that if only the TTIs have verified properly and carefully the statistical return (SR) which contains the details relating to tickets sold

by the conductor and also if only the TTIs have verified the cash available they could have instantaneously come to know that the writ petitioner/conductor has not committed any error. Be that as it may, the disciplinary authority found the petitioner guilty of the charge of having failed to issue tickets to 2 passengers in spite of collecting fare of Rs.5/- from them. Therefore, he imposed the punishment of removal from service by its order dated 22.12.1998. The appeal preferred there against has also failed as it was rejected by the Appellate Authority on 29.05.2000.

The case of the APSRTC was slightly different. It is asserted by them that the conductor at the very first instance, which is otherwise known as spot explanation has pointed out that he has not yet completed the process of issuing the tickets, particularly, in view of the fact that at night 10.00 pm when the bus was so full beyond its capacity and therefore, he cannot be held guilty of the charge. That is the reason why the first charge i.e., framed against the petitioner/conductor was relating to his failure to follow the norm "ISSUE and START".

The Industrial Tribunal has come to the conclusion that order of punishment of removal is too harsh and severe. Therefore, it is disproportionate to the misconduct held established. Exercising power available under Section 11 of the Industrial Disputes Act, the Tribunal directed the reinstatement of the petitioner/conductor into service with continuity of service but without back wages and after reinstatement the next increment due shall be withheld with cumulative effect. Accordingly, the award was rendered on 13.09.2001. This award has not been challenged by the APSRTC to the extent that the Tribunal has ordered reinstatement of the petitioner/conductor into service. It has also not challenged the exercise of jurisdiction under Section 11 of the Industrial Disputes Act by the Tribunal. They have reinstated the petitioner/conductor and he has also retired from service on attaining the age of superannuation. Since the Industrial Tribunal denied him complete back wages, he filed W.P.No.16582 of 2002 in this Court

only with regard to denial of back wages. That writ petition was decided by learned single Judge by the impugned judgment. Entire issue has been dealt with and decided by learned Single Judge by a very brief order. Learned Judge declared denying back wages to the writ petitioner/conductor is not justifiable and hence, set aside that part of the award and declared that the petitioner/conductor is entitled for payment of full back wages. Hence, the present appeal is preferred.

Heard Sri B.Mayur Reddy, learned Standing Counsel for APSRTC as well as Sri Jagadishwar Reddy, appearing for the writ petitioner/conductor.

Sri Mayur Reddy has taken a serious objection to the process by which the writ petition has been disposed by the learned Single Judge without assigning any reasons as to why back wages are ordered to be paid to the writ petitioner/conductor. Learned counsel for the appellant has placed reliance upon the judgment rendered by the Supreme Court in **U.P. State Road Transport Corporation v. Suresh Chand Sharma**<sup>[1]</sup>. After reviewing the earlier decided cases by the Supreme Court, the Supreme Court has now summarized the principles on the subject in Para 20 of the judgment which reads as under:

“Therefore, the law on the issue can be summarized to the effect that, while deciding the case, court is under an obligation to record reasons, however, brief, the same may be as it is a requirement of principles of natural justice. Non-observance of the said principle would vitiate the judicial order. Thus, in view of the above, the judgment and order of the High Court impugned herein is liable to be set aside.”

It is, therefore, essential that reasons must be assigned as to why payment of back wages was ordered by the Court, in as much as payment of back wages upon reinstatement after setting aside the punishment of termination of service is not an automatic affair any

longer. We are in agreement with the criticism of the learned Standing Counsel that the learned Single Judge has not assigned even a single reason for coming to the conclusion that the writ petitioner/conductor is entitled to be paid full back wages. At that stage, Sri Jagadishwar Reddy, learned counsel for the writ petitioner, would suggest that the writ petitioner, if this writ appeal is allowed as prayed for, would suffer prejudice as he will lose an opportunity to establish his legitimate right to claim back wages in as much as the Court would be entitled to take into consideration all relevant factors and may even think of denial of small percentage of the back wages while allowing certain other percentage of back wages to be paid.

Since we find force in the submission made by Sri Jagadishwar and it would be unjust to deny the

1<sup>st</sup> respondent/writ petitioner/conductor to establish as to how far he is legitimately entitled to claim back wages, we consider that it would be appropriate to set aside the judgment rendered by the learned Single Judge dated 28.11.2014 and restore the writ petition back for consideration afresh for final disposal as expeditiously as possible with regard to quantum of such wages which should be allowed. We are sure the principles enunciated by the Supreme Court in **UPSRTC's case (1 Supra)** would be carefully borne in mind.

Accordingly, the writ appeal stands disposed of.

Consequently, miscellaneous petitions, if any, pending shall also stand closed. No costs.

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**JUSTICE NOOTY RAMAMOHANA RAO**

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**JUSTICE ANIS**

02.09.2015

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[\[1\]](#) (2010) 6 SCC 555