

THE HON'BLE SRI JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-

WRIT APPEAL No.1410 of 2011

-

JUDGMENT: (Per Hon'ble Sri Justice Dilip B. Bhosale)

This Writ Appeal is directed against the order dated 03.12.2010 passed in W.P.No.18597 of 2001, whereby the appellant's Writ Petition came to be dismissed. The Writ Petition was directed against the Award dated 21.07.2000 passed in I.D.No.82 of 1996 by the Chairman, Industrial Tribunal – cum – Labour Court, Godavarikhani.

The appellant was removed from service after conducting an enquiry on the allegation that on 23.12.1992, while he was conducting the bus on Yellareddypet to Marrimandla route, the bus was checked and it was found that he had issued ten tickets of Rs.3.75 ps. denomination to a batch of ten passengers, which tickets were already issued and accounted in the statistical returns in the earlier trip.

Learned Counsel for the appellant at the outset invited our attention to the order impugned in the present Writ Appeal and submitted that when the Writ Petition was decided, the appellant was not represented by his advocate. In short, he submitted that the order of the learned single Judge is an *ex parte* order and, therefore, it may be set aside and the matter be remanded for fresh hearing. Instead of adopting that course, we asked the learned Counsel for the appellant to address the Court on merits. He invited our attention to the order of the Labour Court to submit that the appellant had issued fresh tickets to ten passengers of Rs.3.75 ps. denomination and not the used tickets as alleged. He then submitted that a copy of the enquiry report was not furnished to the appellant and in view thereof he could not defend himself during the enquiry. Insofar as the second contention is concerned, we find

that no such grievance was made by the appellant at any point of time till he argued the appeal before us. Such a contention cannot be entertained in Writ Appeal for the first time and examined on merits. Even in respect of the first contention urged in the appeal, arising from the order in the Writ Petition under Article 226 of the Constitution of India, it would not be possible to reassess the evidence/materials on record, apart from the fact that we do not find any error on the face of the record or perversity in the findings recorded by the learned Judge.

Considering the findings of fact on record and considering that there is sufficient material/evidence on record to sustain those findings, we do not find any reason to interfere with the order passed by the learned single Judge. Hence, the Writ Appeal is dismissed. At this stage, learned Counsel for the appellant prays for a direction to the authorities to release the monetary benefits that he is entitled for. We observe that if the petitioner is entitled for any monetary benefits for the service rendered by him earlier, the same may be extended to him expeditiously. The miscellaneous petitions, if any, stand disposed of. No costs.

(DILIP B. BHOSALE, J)

(A.RAMALINGESWARA RAO, J)

29.01.2015

vs

-