

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.22479 OF 2009

DATED:27-10-2015

Between:

D. Srinivasa Rao

... Petitioner

And

The APSRTC

Rep. by its Managing Director

Musheerabad

Hyderabad

and others

... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. S.M. Subhan

COUNSEL FOR THE RESPONDENTS: Mr. P. Durga Prasad,
Standing Counsel for A.P.S.R.T.C.

THE COURT MADE THE FOLLOWING:

ORDER:

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The petitioner, who was conductor of the Andhra Pradesh State Road Transport Corporation (APSRTC), working in Machilipatnam Depot, was removed from service on the charges of cash and ticket irregularities. The accusation against the petitioner was that while conducting the bus he has re-issued four tickets, the total value of which was Rs.14/- (Rupees fourteen only). The petitioner was unsuccessful in appeal and revision before the departmental authorities and also before the Labour Court.

At the hearing, Mr. S.M. Subhan, learned counsel for the petitioner, fairly submitted that in the face of the concurrent findings against his client on the proven misconduct, he is not venturing to join issue on the said aspect. He has, however, urged that having regard to the trivial nature of the misconduct and in the absence of any past history of the petitioner indulging in acts of misconduct, this Court may exercise its discretionary power under Section 11-A of the Industrial Disputes Act, 1947 (for short, 'the Act').

It is not in dispute that the petitioner, who served the Corporation between 1998 and 2004, has come to adverse notice for the first time and based on the same he was removed from service. As noted above, the charge against the petitioner was that he has re-issued four tickets the value of which was Rs.14/-. It is also not in dispute that the petitioner has not come to adverse notice earlier and that he has not suffered any penalty. The petitioner is also aged about 38 years as on today. Considering all these aspects, I feel that the Labour Court ought to have exercised its discretion under Section 11-A of the Act by imposing a lesser penalty. As it has failed to do so, I feel that it is a fit case for this Court to exercise the discretion under

Section 11-A of the Act. Accordingly, the penalty of removal is set aside, and the respondents are directed to reinstate the petitioner into service without back wages and other monetary benefits, except the benefit of past service for re-fixation of pay by taking into account the notional increments between the period of his joining the service till his removal only.

The writ petition is accordingly allowed to the extent indicated above.

As a sequel to disposal of the writ petition, W.P.M.P. No.29198 of 2009 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

27-10-2015

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