

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.4042 of 2003

ORDER:

This writ petition is filed to quash award in I.D.No.64 of 2000 dated 25.06.2002 and to grant continuity of service, attendant benefits, back wages, three annual increments with cumulative effect and pass such other orders that may deem fit and proper under circumstances of the case.

2. Petitioner herein was appointed as Conductor in respondent-Corporation in the year 1992 and while he was working as Conductor on route Owk to Kondamanayanapalli on 20.01.1999, a check was conducted at Stage No.7 and inspecting authority noticed following irregularities:

1. "For having collected the fare of Rs.8/- (each Rs.4/-) from a batch of two passengers who boarded the bus at Owk and bound for Kumukuntla ex-stages 5 to 8 and reissued the tickets bearing Nos.319/676306 & 317 of Rs.4/- denom, which were already issued and accounted in the S.R. during 10-00 hrs., trip from Kondamanayunipalle to Owk on 20-1-99, which constitutes misconduct Under Regulation 28 (xxiii) of APSRTC Employee's (conduct) Regulations, 1963"
2. "For having collected the fare of Rs.6/- each from 7 individuals passengers who boarded the bus at Owk and bound for

Kondamanayunipalle ex-stages 8 to 10 and issued used tickets bearing Nos.187/950400, 401, 402, 403, 405, 413, 418 of Rs.6/- denom, which were already issued and accounted in the S.R. during 10-00 hrs., trip from Kondamanayunipalle to Owk on 20-1-99 which constitutes misconduct Under Regulations 28 (xxiii) of APSRTC Employees (Conduct) Reg.1963”.

A departmental enquiry was conducted on the above referred allegations and petitioner was found guilty of the charges and orders were issued terminating his services through proceedings dated 21.06.1999. Petitioner approached appellate Authority challenging the orders of termination and that appeal was rejected on 23.07.1999. Thereafter, petitioner filed a review petition before Regional Manager, APSRTC, and the same was also rejected on 25.09.1999. Having no other remedy, petitioner raised industrial dispute before Industrial Tribunal-cum-Labour Court, Anantapur which was registered as I.D.No.64 of 2000 and the Labour Court passed an award on 25.06.2000 directing respondent Corporation to reinstate the petitioner as fresh Conductor by reducing his pay to three annual increments with cumulative effect. Challenging the said award, present writ petition is filed.

3. Heard arguments.

4. Advocate for petitioner submitted that Labour Court

having set aside the termination order passed by respondent Corporation is not justified in imposing punishment like, fresh appointment and reducing the pay to three annual increments with cumulative effect, the same would amount to double jeopardy. He further submitted, this Court in similar set of facts in W.P.Nos.3563 of 2003 and 4853 of 2006 held that ordering of such stoppage of three annual increments with cumulative effect is against principles of natural justice and would amount to double jeopardy and pleaded to set aside the order of Labour Court to the extent of stoppage of three annual increments and the same benefit may be extended to petitioner also.

5. On the other hand, advocate for respondent Corporation submitted that petitioner in the spot explanation admitted the irregularities and that Labour Court has not committed any error and that there are no grounds to set aside the award dated 25.06.2002.

6. I have perused the judgments of this Court in W.P.No.3563 of 2003 dated 04.08.2009 and W.P.No.4853 of 2006 dated 31.10.2013. In W.P.No.4853 of 2006 this Court while relying decisions in **P.Habeen Saheb v. The APSRTC**^[1] and **Durgavathi Devi and others v. Union of India**^[2], observed imposing further punishment of stoppage of increments from a cadre where petitioner is yet to be born is absolutely onerous

and unsustainable. As rightly pointed out, petitioner was given fresh appointment as a Conductor, therefore ordering reduction of pay to three annual increments with cumulative effect is definitely double jeopardy because petitioner has already lost all his service, back wages and attendant benefits. When Labour Court held that a lenient view has to be taken considering the nature of charges, having ordered for fresh appointment, ordering reduction of pay to three annual increments with cumulative effect is definitely unreasonable and a harsh punishment, therefore following the judgment of this Court in W.P.No.4853 of 2006, I am of the view that interests of justice would meet if the order of Labour Court is modified by setting aside the direction to the extent of reduction of pay to three annual increments with cumulative effect.

7. Therefore, writ petition is allowed by modifying the award of Labour Court by setting aside the direction as to the reduction of pay to three annual increments with cumulative effect and rest of the award is upheld. Writ petition is ordered, accordingly.

8. Miscellaneous Petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

28th December 2015.

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[\[1\]](#) 1995 (1) ALT 553 (DB)

[\[2\]](#) 2004 (6) ALD 672