

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
Writ Petition Nos.12250, 9081/12; 27110, 23679, 23826, 23794
and 23770/11

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Dated 27th August, 2015

Between:

J.Ratna Srinivas

...Petitioner

(W.P.No.12250 of 2012)

And

The APSRTC, rep.by its Managing Director, Musheerabad,
Hyderabad and others

...Respondents

(W.P.No.12250 of 2012)

Counsel for the petitioner: Sri P.Sridhar Rao

(W.P.No.12250 of 2012)

Counsel for the respondents: Sri B.Mayur Reddy

(W.P.No.12250 of 2012)

The Court made the following:

COMMON ORDER:

All these writ petitions involve common issue, namely, whether the respondents are legally justified in reducing the distances of different routes on which the petitioners' buses are being plied under agreements to the respondents. For determination of this issue, detailed facts need not be recorded. It will suffice to note that each petitioner has hired his/her bus to the respondents under separate written agreements under which the respondents have agreed to pay hire charges based on distances

for which the buses are plied. Much after the buses were hired, the respondents have reduced the total distance in respect of each bus. Feeling aggrieved by this decision, the petitioners have filed these writ petitions.

Sri P.Sridhar Rao, learned counsel for the petitioners, advanced two submissions, namely, (1) that before the respondents have reduced the distances, no notices were issued to the petitioners and the purported joint survey based on which the distances were reduced is neither in the knowledge of the petitioners nor they were issued any notices before undertaking the alleged joint survey and (2) that though the distances were reduced by the respondents for the purpose of payment of reduced hire charges to the petitioners, the fares being collected from the passengers based on the distances have not been reduced.

Separate counter affidavits have been filed in these writ petitions, wherein the respondents have sought to justify the reduction based on the purported joint survey. However, no specific averment was made in the counter affidavits as to the date on which the notices were issued to the petitioners for the alleged joint survey.

At the hearing, Sri B.Mayur Reddy, learned Standing Counsel for the respondents, submitted that no written notices were issued to the petitioners, but on being orally informed, the petitioners have sent two of their representatives belonging to their Union to the joint survey.

Indubitably, reduction of distances would directly affect the interests of the petitioners as the same results in reduction of hire charges. Therefore, before such an exercise is undertaken, the principles of natural justice require that the petitioners are put on notice and they are allowed to participate in the joint survey either personally or through their authorised representatives. The

respondents have not produced any material to show that the two persons who are allegedly the representatives of the petitioners are duly authorised by the latter. Concededly, no written notices were issued to the petitioners.

From these facts, this Court has no hesitation to conclude that the respondents have not followed the principles of natural justice and fair play in reducing the distances. On this ground alone, the decision of the respondents to reduce the distances is liable to be nullified.

As regards the second contention of the learned counsel for the petitioners, no specific stand has been taken by the respondents as to whether consequent on the reduction of the distances, they have reduced the fare to be collected from the passengers. In the absence of a specific plea in this regard, it is reasonable to presume that the respondents have not reduced the fares. As rightly pleaded by the learned counsel for the petitioners that it would be unfair on the part of the Corporation not to have reduced the fares in cases where the distances were reduced. However, on this ground the petitioners cannot be allowed to enrich themselves unjustly.

For the above-mentioned reasons, the respondents are directed to hold fresh joint surveys after written notices to the petitioners fixing dates for holding such surveys. The petitioners or their representatives shall be permitted to participate in such joint surveys and depending upon the outcome of the surveys, the respondents shall take appropriate decision with regard to the actual distances for which the petitioners' buses were plied. In the event, it is found that the distances are less than they were assumed earlier, the respondents are entitled to reduce the hire charges proportionately and shall also reduce the fares of the passengers proportionately. The respondents shall complete this

exercise within a period of two months from the date of receipt of a copy of this order. It is needless to observe that till this exercise is completed, the respondents shall not recover any amount paid to the petitioners towards alleged excess payments.

Subject to the above directions and observations, the writ petitions are allowed.

As a sequel to disposal of the writ petitions, all the pending interlocutory applications shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

27th August, 2015
VGB