

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.8454 of 2005

ORDER:

By Award dated 01.10.2004 passed in I.D.No.123 of 2000, the Labour Court, Guntur, directed reinstatement of the petitioner herein as a fresh Conductor holding that he was not entitled to any monetary benefits from the date of his removal from service till the date of the order and was deemed to have lost his services prior to his removal. Aggrieved by the denial of such reliefs, the petitioner is before this Court.

The petitioner was a Conductor in the service of the Andhra Pradesh State Road Transport Corporation (APSRTC). He was subjected to disciplinary proceedings in connection with certain cash and ticket irregularities allegedly committed by him on 21.01.1998. He was removed from service on 20.01.1999. Aggrieved thereby, he invoked the jurisdiction of the Labour Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short, 'the Act of 1947') by way of I.D.No.123 of 2000. The Labour Court, upon considering the material on record, confirmed that the charges against the petitioner were duly proved. Having stated so, the Labour Court found it expedient to exercise jurisdiction in the matter on the ground that the punishment of removal was not in proportion to the charges. The Labour Court accordingly directed reinstatement of the petitioner in service as a fresh Conductor while denying him the reliefs of continuity of service as well as monetary benefits.

Perusal of the material on record reflects that there is no reason to doubt the culpability of the petitioner insofar as the alleged cash and ticket irregularities are concerned. It is not even his case that the findings in that regard are factually incorrect. In his affidavit filed in support of this writ petition, the petitioner merely contended that as the alleged irregularity was to the tune of Rs.10/-, he should not have been denied further reliefs by the Labour Court.

It is a settled position of law that once the charge of cash and ticket

irregularities by a Bus Conductor is established, the failure on the part of such Conductor to live up to his fiduciary obligation to the Road Transport Corporation is made out. In a case of such nature, the discretionary jurisdiction of the Labour Court under Section 11-A of the Act of 1947 should be exercised with care and caution. (**Karnataka State Road Transport Corporation v. B.S. Hullikatti**^[1]). Notwithstanding this legal position, the Labour Court thought it fit to exercise such jurisdiction in the present case. However, to the fortune of the petitioner the APSRTC did not choose to challenge the Award to the extent relief was granted. That being so, the prayer of the petitioner for further reliefs cannot be countenanced.

Reliance is placed by the learned counsel for the petitioner on

M. Narayana v. Industrial Tribunal-cum-Labour Court, Anantapur^[2].

However, the decision rendered in the said case turned on the facts thereof as this Court found that the charge of cash and ticket irregularities was not made out and the finding to that effect was erroneous and unwarranted. As such is not the case on hand, this decision is of no avail to the petitioner.

The writ petition is devoid of merit and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

25th August, 2015
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^[1] 2001 (1) SCR 487

^[2] 1999 (5) ALD 574