

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH

WRIT PETITION NO.8307 OF 2005

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Between:

E.L. Goud

... Petitioner

and

The Depot Manager, APSRTC Bus Depot,
Wanaparthi, Mahabubnagar District and
another

... Respondents

DATE OF JUDGMENT PRONOUNCEMENT: 24th AUGUST, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

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| 1. | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes /No |
| 3. | Whether His Lordship wishes to
see the fair copy of the Judgment? | Yes /No |

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.8307 OF 2005

ORDER

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Aggrieved by the Award dated 13.11.2002 passed in I.D. No.32 of 2001 on the file of the Labour Court-III, Hyderabad, to the extent it denied him back wages and attendant benefits, the petitioner workman is before this Court.

The petitioner was a Conductor in the service of the Andhra Pradesh State Road Transport Corporation (APSRTC). While conducting the bus service from Hyderabad to Wanaparthi on 13.04.1999, he was found to have committed certain cash and ticket irregularities. He was removed from service by order dated 07.10.1999. The said order was confirmed in appeal and thereafter, in review. He thereupon invoked the jurisdiction of the Labour Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (for brevity, 'the Act of 1947'). The Labour Court, upon considering the material on record, found that the charges leveled against the petitioner were duly proved but exercised jurisdiction under Section 11-A of the Act of 1947 on the issue of proportionality and reduced the punishment. He was accordingly directed to be reinstated in service with continuity of service but with entitlement to future increments and promotions only from the date of reinstatement. He was held disentitled to back wages and attendant benefits. Aggrieved by the denial of these reliefs, the petitioner is before this Court.

Perusal of the record reflects that three charges were framed against the petitioner.

1. For having collected the requisite fare of Rs.44/- @ Rs.11.00 each at the boarding point itself from a batch of 4 passengers who boarded the bus at Bijnapally bound for Wanaparthi Ex.stages 5 to 1 issued ticket bearing No.131/994587 to 994590 E.4 tickets of Rs.1.00 den, and failed to issue Rs.10/- den. tickets, which constitutes misconduct under Reg.28(vi) (a) of APSRTC Employees (Conduct) Regulations, 1963.”
2. For having closed the tray nos. of all denominations up to the stage No.1 Wanaparthi without completing the correct ticket issues which is a misconduct under Reg.28(xxxii) of APSRTC Employees (Conduct) Regulations, 1963.
3. For having violated the rule ‘Issue & Start’ which constitutes misconduct under Reg.28(xxxii) of APSRTC Employees (Conduct) Reg. 1963.

The main charge was therefore one of causing loss of revenue to the APSRTC. The Labour Court not only found the lesser charges 2 and 3 to be established but also confirmed that the first charge, relating to issue of tickets of a lesser denomination after receipt of full ticket fare, was also made out. Notwithstanding these findings, the Labour Court was of the opinion that it was a fit case to exercise power under Section 11-A of the Act of 1947 on the ground of proportionality of the punishment. Taking note of the fact that the petitioner was 51 years of age at that time; had rendered long service to the organization and would not get any alternate employment at that age, the Labour Court opined that the punishment of removal from service was harsh and disproportionate. It was on these grounds that the Labour Court interfered and reduced the punishment.

Admittedly, the APSRTC did not choose to file a writ petition challenging the subject Award to the extent it granted relief to the petitioner. Thus, the only question before this Court is as to whether denial of the reliefs of back wages and attendant benefits was warranted.

Once it was established that the petitioner collected the requisite ticket fare but issued tickets of a lesser denomination, there can be no doubt that he failed to live up to his fiduciary obligation to the

APSRTC. Considering a similar fact situation in **KARNATAKA STATE ROAD TRANSPORT CORPORATION V/s. B.S. HULLIKATTI**^[1], the Supreme Court observed that it would be misplaced sympathy for the Labour Court to interfere in cases where it is found that a bus conductor had either not issued tickets to passengers, though he should have, or had issued tickets of a lower denomination knowing fully well the correct fare to be charged. The Supreme Court was of the opinion that it is the responsibility of the bus conductor to collect the correct fare from passengers and deposit the same with the Road Transport Corporation as he acts in a fiduciary capacity and it would be a case of gross misconduct if, knowingly, he does not collect any fare or the correct amount of fare.

In **RAJASTHAN STATE ROAD CORPORATION V/s. GHANSHYAM SHARMA**^[2], the Supreme Court reiterated that where a bus conductor carries passengers without tickets or issues tickets at a lesser rate than the proper rate, the said acts would, *inter alia*, amount to either being a case of dishonesty or of gross negligence rendering him unfit to be retained in service as such inaction or action on his part results in financial loss to the Road Transport Corporation. The Supreme Court was firmly of the opinion that in cases such as these, orders of dismissal from service should not be set aside. The Supreme Court clarified that under Section 11-A of the Act of 1947, the Labour Court has jurisdiction and power to interfere with the quantum of punishment, but such discretion has to be used judiciously. When the main duty of the conductor is to issue tickets and collect fare and then deposit the same with the Road Transport Corporation and he fails to do so, the Supreme Court opined that it would be misplaced sympathy to order his reinstatement.

Thus, the decision in **B.S. HULLIKATTI**¹ was followed in **GHANSHYAM SHARMA**² and thereafter in **UTTARANCHAL TRANSPORT CORPORATION V/s. SANJAY KUMAR**

NAUTIYAL^[3], RAJASTHAN SRTC V/S. KAMRUDDIN^[4] and RAJASTHAN STATE ROAD TRANSPORT CORPORATION V/s. BAJRANG LAL^[5]. Reference was made in **BAJRANG LAL⁵ to MUNICIPAL COMMITTEE V/s. KRISHNAN BEHARI^[6]**, wherein it was observed that in cases involving corruption there cannot be any punishment other than dismissal from service and any sympathy shown in such cases is totally uncalled for and opposed to public interest. The Supreme Court further observed that the amount misappropriated may be small or large but it is the act of misappropriation in itself that is relevant.

In the light of the aforestated settled legal position, the petitioner should be grateful for the relief granted to him by the Labour Court which, to his fortune, has not been challenged by the APSRTC or its successor-in-interest, the Telangana State Road Transport Corporation. As he was not justly entitled to the relief of reinstatement in service to begin with, his prayer before this Court for grant of further reliefs in the form of back wages and other attendant benefits cannot be countenanced.

The writ petition is therefore devoid of merit and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

24th AUGUST, 2015

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^[1] (2001) 2 SCC 574

^[2] (2002) 10 SCC 330

^[3] (2008) 12 SCC 131

^[4] (2009) 7 SCC 552

^[5] (2014) 4 SCC 693

[\[6\]](#) (1996) 2 SCC 714