

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.2681 OF 2002

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ORDER:

This writ petition is filed challenging the award dated 13.07.2001, passed in I.D.No.272/2000 by the Industrial Tribunal-II, Hyderabad, whereby the Tribunal dismissed the award in I.D.No.272/2000, confirming the order of removal passed by the 2nd respondent as well as appellate authority.

The facts of the case are that the petitioner was appointed as Conductor in the respondent Corporation in the year 1971 and while performing his duties on vehicle bearing No.AP 9Z 8766, on 03.11.1998, enroute from Hyderabad to Sedam, a surprise check was conducted at stage No.23 at about 15.10 hours and a chargesheet was issued on 18.11.1998 with following charges.

- a) "For having failed to observe the 'rule Issue and Start' without any reasonable cause which constitutes misconduct under Reg.28(vi) (a) of APSRTC Employees (Conduct) Regulations 1963."
- b) "For having failed to issue luggage tickets to 30 Kgs. to a passenger who boarded in your bus at Kodangal and alighting at Rebbanpally ex-stages 19 to 23 inspite of collecting the amount of Rs.10/- from the passenger at boarding point itself which constitutes misconduct under Reg.28(vi) (a), (x) & (xxxii) of APSRTC Employees' (Conduct) Regulations 1963."
- c) "For having closed the tray numbers of all denominations in your S.R., upto stage No.23 without completion of above ticket issue which constitutes misconduct under Reg.289vi) (a) & (xxxii) of APSRTC Employees' (Conduct) Regulations, 1963."

Thereafter, the petitioner submitted his explanation to the

charge-sheet denying charges. But, however, the respondent without considering the explanation, appointed an Enquiry Officer to conduct enquiry into the charges. Basing on the Report submitted by the Enquiry officer, petitioner was issued show cause notice of removal dated 22.02.1999 and thereafter, petitioner services were terminated by the 2nd respondent vide proceedings dated 05.03.1999. Aggrieved by the said termination orders, petitioner filed appeal to the appellate authority and the same was also dismissed. Having no other alternative remedy, petitioner raised an Industrial dispute before the Labour Court-III, Hyderabad and the same was numbered as I.D.No.272/2000. The Labour Court-III after hearing passed an award dated 13.01.2001 dismissing the claim of the petitioner. Against the same, the petitioner filed the present writ petition.

The contention of the petitioner is that without considering the explanation submitted by the petitioner, the 2nd respondent appointed the Enquiry Officer and an enquiry was conducted in gross violation of principles of natural justice. It is also contended that though as per the APSRTC Rules, 50 Kgs. luggage is permissible to carry along with the passenger, there was no reason why the respondent officials have implicated case against the petitioner, since the alleged passenger was carrying about 30 kgs. It is also the case of the petitioner that the Labour Court has not considered the case of the petitioner in proper perspective and it did not apply its mind with regard to passenger statement. It is also the case of the petitioner that the Labour Court failed to exercise its power under Section 11 (A) of the Industrial Disputes Act.

On the other hand Sri Vasudeva Reddy, learned Standing

Counsel for APSRTC submits that though the petitioner submitted explanation to the show cause notice, the same is found not satisfactory and then appointed Enquiry Officer. After enquiry, the Enquiry Officer submitted his report, wherein it is categorically stated that the charges leveled against the petitioner are proved. As such, the petitioner was issued show cause notice for removal and after considering the explanation submitted by the petitioner, order of removal was passed. He further submits that the appellate authority also confirmed the orders passed by the 2nd respondent. He also submits that the Labour Court also considered the pleas raised by the petitioner and confirmed the order of removal. As such, there is no infirmity in the order passed by the Labour Court. He also submits that when once the petitioner himself admitted the guilt, question of further consideration does not arise. He also submits that this Court cannot sit in appeal while exercising jurisdiction under article 226 of the Constitution of India in interfering with the award of Labour Court. He also relied on the Judgment reported in **2000 LAB.I.C.3302**, wherein the Supreme Court observed that once act of misappropriation is proved, may be for a small or large amount, there is no question of showing uncalled for sympathy and reinstating the employees in service.

In the present case, the Enquiry Officer filed the report, which reads as follows;

“that all the charges leveled against the petitioner are proved basing on the statement of the passenger and the spot explanation of the petitioner. The Disciplinary authority accepted the findings of the Enquiry officer. On perusing the statement of the passenger it is clear that he stated that the petitioner collected Rs.10/- towards luggage charges at the boarding point itself but failed to issue any ticket to him. The said statement was attested by the petitioner as true. Moreover, he himself written the said statement in his own

handwriting as the passenger was an illiterate. In the said explanation he admitted of collecting Rs.10/- from him and his failure to issue ticket to him but pleaded mercy. The checking officials and the passenger are independent witnesses and no motive was attributed and proved to show that they have spoken against the petitioner. On perusing the statement of passenger and the spot explanation of the petitioner it is clear that the petitioner collected Rs.10/- towards luggage fare and failed to issue ticket to him. Any subsequent explanation of the petitioner amounts to only an improvement.”

All the above facts were taken into account by the Labour Court while passing the award. The Labour Court also considered various Judgments of the Supreme Court as well as this Court while considering the case of the petitioner under Section 11 (A) of the Industrial Disputes Act, and held that petitioner is not entitled for any claim made by him. In the award, it is also stated that the Service Register of the petitioner shows that he was warned seven times, suspended thrice, once his security deposit was forfeited and removed from service for the cash and ticket irregularities.

In view of the above facts and circumstances, I do not see any error in the award passed by the Labour Court-III, warranting interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India.

Accordingly, the writ petition is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

02.07.2015

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