

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.6849 OF 2011

ORDER:

The petitioner is a Conductor. He was assigned duty on the bus route from Bhopalpally to Hanamkonda on 28.07.2006. Alleging cash and ticket irregularities, disciplinary proceedings were initiated against him. He was placed under suspension on 03.08.2006 and charge sheet was issued. Enquiry Officer held the charges as proved. Based on the findings of the Enquiry Officer, disciplinary authority passed orders on 10.01.2007 removing the petitioner from service. The appeal and review preferred against the said orders were rejected. Aggrieved thereby, the petitioner raised Industrial Dispute before the Industrial Tribunal-cum-Labour Court at Warangal. The claim was registered as I.D.No.82 of 2007. The Labour Court framed three issues for consideration which are as under:

1. Whether the charges framed against the petitioner are proved or not?
2. Whether the punishment of removal is appropriate or disproportionate to the alleged misconduct?
3. To what relief?

2. On a detailed analysis of the evidence on record, the Labour Court concurred with the disciplinary action taken against the petitioner and held the charges as proved. However, the Labour Court came to the rescue of the petitioner by holding that the punishment of removal on the allegation of cash and ticket irregularity was excessive. According to the Labour Court, the allegation against the petitioner was that he collected fare but did not issue ticket. Therefore, stringent penalty of removal from service would amount to disproportionate punishment. Having regard to the said finding, the

Labour Court directed appointment of the petitioner as Conductor afresh in the present scale of pay, but without continuity of service, back wages and other attendant benefits. The petitioner challenges that portion of the award by which he was directed to be appointed as Conductor afresh and denied continuity of service, back wages and other attendant benefits.

3. Heard learned counsel for the petitioner and learned Standing Counsel for the respondent – Corporation.

4. The only submission made by learned counsel for the petitioner is that the Labour Court, having found that the only allegation against the petitioner was collection of fare and non-issuance of ticket and having held that the punishment of removal from service was excessive, erred in directing the appointment of the petitioner as a fresh Conductor and such punishment is excessive and disproportionate. He would therefore submit that, that portion of the award should be set aside and less punishment be imposed.

5. Opposing the said contentions, the learned Standing Counsel, Sri B. Mayur Reddy, states that when finding of fact is recorded by the Labour Court and the Labour Court in exercise of power under Section 11-A of the Industrial Disputes Act, 1947 (for short, 'the Act') determined appropriate punishment, the Writ Court has no jurisdiction to go into that aspect and further modify the punishment. In support of his contention, he placed reliance on a Full Bench judgment of this Court in **V. Ramana v. APSRTC and others**^[1].

6. It is not in dispute that the allegation of cash and ticket irregularities are proved in the departmental proceedings and the

same was affirmed by the Labour Court. The only issue for consideration is, whether the punishment imposed by the Labour Court is sustainable. On analysis of the evidence on record, it is clear that the petitioner, having collected the fare did not issue tickets to many passengers. This fact is proved. As seen from the award, it was not the first time petitioner involved in such incident. Earlier on two occasions, petitioner was removed on a similar charge of cash and ticket irregularity, but later reinstated into service. Thus, it cannot be said that the punishment imposed by the Labour Court in exercise of power under Section 11-A of the Act is erroneous. It is not a case of patent error in exercise of jurisdiction or wrong appreciation of the facts. The Labour Court was considerate in passing such orders even though it has noticed that on two similar incidents, earlier disciplinary proceedings were initiated against petitioner. Petitioner ought to have been content with the punishment determined by the Labour Court. I see no illegality/perversity in the order under challenge.

7. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:24.08.2016

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[\[1\]](#) 2001 (5) ALD 427 (FB)