

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 1837 OF 2009

ORDER:

This Writ Petition has been filed by the Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation') challenging the Award dated 17.12.2007 made in I.D. No. 151 of 2005 on the file of the Labour Court-I, Hyderabad, whereunder, the 1st respondent was directed to be reinstated into service with continuity of service and all other attendant benefits, but without back wages.

The factual matrix of the case is as follows:

The 1st respondent was engaged as the Conductor in the Corporation. On 30.10.1999, while conducting the bus bearing Registration No. 5494 on route Medchal-Kollakal, it was alleged, he committed cash and ticket irregularities and also indulged in unruly behaviour with the passenger. Therefore, the following four charges have been framed against the 1st respondent:

- 1) for having failed to issue ticket to a passenger despite collecting the requisite fare of Rs.3/- at the boarding point itself from passenger found travelling without ticket having boarded your bus at Medchal and bound for Kollakal, which is mis-conduct on your part vide Reg.28(xi) of APSRTC Employees (Conduct) Reg. 1963.
- 2) For having slapped the said passenger at the time of check thus un-rully behaved with the passenger tarnishing the image of the Corporation which is mis-conduct on your part vide Reg.28(xi) of APSRTC Employees (Conduct) Reg. 1963.
- 3) For having had bus cash excess by Rs.6.25 which is mis-conduct on your part vide Reg.28(xxiv) of APSRTC Employees (Conduct) Reg.1963.
- 4) For having not cooperated with the checking officials at the time of check and created a bad scene which is mis-conduct on your part vide Reg.28(xxii) of APSRTC Employees (Conduct) Reg.1963.

Not satisfied with the explanation submitted by the petitioner and based on the evidence recorded from the witnesses, the disciplinary authority passed the order dated 07.02.2000 removing the 1st respondent from service. The appeal preferred there against was rejected by the Regional Manager on 12.02.2001. The 1st respondent therefore, raised I.D.No. 151 of 2005. The Labour Court, through the order impugned, directed reinstatement of the 1st respondent into service with continuity of service and all other attendant benefits, but without back wages. Hence, the Writ Petition.

Learned Standing Counsel for the Corporation criticizes the Award of the Labour Court on the ground that when there were only four passengers travelling in the bus at the time of check, the 1st respondent ought to have verified each passenger whether they obtained tickets or not. According to the learned Standing Counsel the explanation offered by the 1st respondent that the passenger was a regular passenger and hence, he believed his statement of holding the pass, would amount to dereliction of duty on his part. Further, the learned Standing Counsel submits that the employees of the Corporation are governed by the APSRTC Employees' (CCA) Regulations and hence, they are bound by it. He therefore, prays to remand the matter to the Labour Court for its consideration afresh.

Learned counsel for the 1st respondent supports the Award of the Tribunal and prays for dismissal of the Writ Petition.

Considered the respective submissions. From a perusal of the Award, it can be seen that the Labour Court has believed the

version of the 1st respondent that he did not verify the pass of the passenger, as he was very regular in that route and that when he lied before the checking officials, the 1st respondent lost his cool and slapped the said passenger. The Labour Court accepted the explanation offered by the 1st respondent in that regard as no motive or intention has been attributed to him for not issuing the ticket to the said passenger. Taking compassionate view of the matter, the Labour Court modified the punishment of dismissal from service into reinstatement with continuity of service and all other attendant benefits, but without back wages. The same cannot be found fault with, particularly in view of the judgment of the Supreme Court in ***State of Punjab v. Ram Singh***, wherein it has been held that mere act, carelessness or negligence in performance of duty alone will not constitute 'misconduct', unless there is a wrong intention to do so. Denial of back wages cannot be said to be a punishment in the present case, as, at any rate, the 1st respondent would not have been entitled for back wages merely because he was directed to be reinstated. In that view of the matter, considering the submission made by the learned counsel for the 1st respondent that his client deserves some lenience, instead of remanding the matter to the Labour Court for consideration once again after 11 years, interests of justice demand that punishment be modified to that of denial of attendant benefits to the extent of 50%.

In the result, the Writ Petition is partly allowed, modifying the Award passed by the Labour Court to the extent of reinstatement of the 1st respondent into service with continuity of

service and all other attendant benefits to the extent of 50%, but without back wages. No costs.

Consequently, the miscellaneous applications, if any shall stand disposed of.

CHALLA KODANDA RAM, J

06th September 2016

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