

HONOURABLE SRI JUSTICE S.RAVI KUMAR

WRIT PETITION No.15244 OF 2003

Dated 11-4-2016

Between:

_____A.Narayana.

_____..Petitioner.

And:

_____The Industrial Tribunal-cum-Labour Court,
Warangal, represented by its Presiding Officer and
another.

_____..Respondents.

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HONOURABLE SRI JUSTICE S.RAVI KUMAR

WRIT PETITION No.15244 OF 2003

ORDER: _____

This writ petition is filed questioning the award dated
14-9-2001 in I.D.No.105 of 1999 on the file of
Industrial Tribunal cum- Labour Court, Warangal.

Writ petitioner herein approached Labour Court
questioning the removal order dated 12-4-1999. The
Industrial Tribunal-cum-Labour Court on a consideration
of material on record passed award by setting aside the
removal order dated 12-4-1999 and ordered for
reinstatement of petitioner as conductor afresh in the time
scale holding that the petitioner is not entitled for continuity
of service and back wages

According to writ petitioner, the Order of Industrial
tribunal directing reinstatement afresh is illegal, arbitrary
and unjust and consequently, quash the award and grant
continuity of service and attendant benefits and back
wages. Petitioner filed his affidavit in support of the
petition and according to his affidavit, he was appointed
as conductor on 9-11-1983 and since then, he had been
discharging his duties to the utmost satisfaction of
superiors. While so, on 23-12-1998, a check was

exercised by checking officials at stage No.4. Though there were no irregularities on the part of the petitioner, checking officials made false allegation on the basis of which he was served with a charge sheet dated 12-1-1999 with the following charges.

- 1) *“For having failed to observe the rule issue and Start, which constitutes misconduct in terms of Reg.No.28 (xxxii) of APSRTC Employees (conduct) Reg.1963”.*
- 2) *“For having failed to collect the fare and issue ticket to a passenger, who found alighting without ticket at Madhapur stage No.4, having boarded the bus at Korvi stage No.3, which constitutes to mis-conduct in terms of Reg.28 (vi) (a) of APSRTC Employees (Conduct) Reg. 1963.”*
- 3) *“For having failed to close the ticket tray Nos.upto stage No.4 upto Rs.8-50 ps den., and closed tray Nos. from Rs.10-00 den. to Rs.12-00 den. which constitutes misconduct in terms of Reg.No.28 (xxxii) of A.P.S.R.T.C. Employees’ (conduct) Reg.1963”.*

Writ petitioner gave explanation to the above referred charges and the second respondent herein without considering the explanation ordered for Enquiry and it is further contended that Enquiry Officer conducted enquiry without following principles of natural justice and gave a finding that the petitioner is guilty of charges and basing on enquiry report dated 18-2-1999, a show cause notice suggesting removal was issued to the petitioner for which the petitioner has given explanation but without considering explanation, termination proceedings dated 12-4-1999 were issued. It is contended that the petitioner approached appellate authority and that his appeal was rejected thereafter, he filed a review which was also rejected without assigning any reason, having no alternative remedy, he raised a dispute before Industrial Tribunal-cum-Labour Court and the Labour court though set aside the order of removal, it only granted reinstatement as a fresh candidate and the same is against principles of natural justice.

Corporation filed counter disputing affidavit

averments of the petitioner and it mainly contended that the past conduct of the petitioner was not satisfactory and he was imposed several punishments i.e., removal of service for one time, deferment of increment for five times and punishment of censure for one time and that petitioner has not changed his attitude in spite of such punishment. Therefore, contention of writ petitioner is not tenable.

Heard arguments.

Both sides submitted their arguments supporting respective contentions of their clients.

Now the point that would arise for my consideration in this writ petition is whether the award of the Labour Court is legal, correct and proper?

POINT:

The writ petitioner faced charges of certain cash and ticket irregularities which was noticed by the checking officials on 23-12-1998, when check was exercised on bus No.2408 from Mahabubabad to Nereda at stage No.4 i.e., Madhapur, on its route from Mahabubabad to Nereda.

First charge against petitioner is that he failed to observe the rule, issue and start and second charge is that he failed to collect fare and issue ticket to passenger and third charge is that he failed to close ticket tray numbers denomination of Rs.8.50ps and all the charges are duly proved in the domestic enquiry.

As seen from the record, the SR which is marked as Ex.M.2 has clearly substantiated the charges leveled against the writ petitioner corroborated with the passengers statement marked as Ex.M.4. It appears that passengers were also examined before the enquiry, who supported the version of department and the entire evidence is against writ petitioner.

The main argument of the advocate for petitioner is

that when the Labour Court observed that no malafidies can be attributed to the petitioner and the Enquiry Officer has not proceeded with judicial approach and set aside the removal order ought to have granted reinstatement with continuity of service with back wages. To support his argument, he mainly relied on a decision of this court in *DEPOT MANAGER, APSRTC, MEDAK DEPOT, MEDAK DISTRICT v. D.NARAYANA AND ANOTHER* (^[1]). In that case, this court held that as the intended act of the employee was duly established and fault on the part of employee is only technical violation of instructions of the corporation, to start the onward bus journey only after completion of issuance of tickets and these instructions sometimes may not be possible to follow in such cases setting aside the removal order is well justified.

In that case, conductor was removed from service on the allegation that he collected Rs.1.50 ps. from each passenger but did not issue tickets at stage No.6 and the Labour Court ordered for reinstatement and when that was challenged, this court upheld the order of the Labour court.

But here the main grievance is with regard to punishment.

According to the writ petitioner, ordering reinstatement as a fresh employee is unreasonable and against the principles of natural justice. In the counter, second respondent herein specifically pleaded that the writ petitioner herein was earlier removed from service on one occasion and that he was given punishment of stoppage of increment for five times and was also given a punishment of censure on one occasion for similar charges. It is further contended that in spite of that, Labour court took a sympathetic view, therefore, objection of the writ petitioner with regard to punishment is not tenable.

When the second respondent specifically pleaded

with regard to earlier punishment, the same is not disputed by the petitioner by filing any reply. When petitioner was given punishment of stoppage of increment on five occasions and punishment of censure on one occasion and even removal on one occasion, he is not justified in seeking reinstatement with continuity of service and back wages.

From the material, I am of the view that sufficient mercy was already shown to the petitioner by Labour court and therefore, that award cannot be interfered. For these reasons, contention of the petitioner that the award dated 14-9-2001 is illegal and against principles of natural justice cannot be accepted.

For these reasons, I am of the view that there are absolutely no merits in the writ petition and the same is liable to be dismissed.

Accordingly, this writ petition is dismissed. No costs.

As a sequel to the disposal of this writ petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE

S.RAVI KUMAR

Dated 11-4-2016.

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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Dated 11-4-2016

Dvs

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