

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 2409 OF 2006

ORDER:

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Heard.

The present Writ Petition came to be filed seeking issuance of *Certiorari* calling for records relating to Award in I.D.No.107 of 2000 on the file of Labour Court, Guntur.

The averments in the affidavit filed in support of the Writ Petition are as under:

On 24.08.1975, the petitioner joined as Security Guard in APSRTC and subsequently re-categorized as Conductor. On 13.07.1999, the petitioner was charge sheeted on an allegation that on 08.07.1999, he was found to have collected fare from two passengers and issued tickets of Rs.3/- denomination not concerning the tray of the petitioner. Domestic enquiry was conducted and the petitioner was removed from the service with effect from 23.09.1999. An appeal came to be filed by the petitioner to the Deputy Chief Traffic Manager, Eluru, which was rejected on 27.10.1999 and the review filed before the Regional Manager, Eluru was also dismissed. Challenging the said orders, the petitioner preferred I.D. No.107 of 2000 before the Labour Court, Guntur. After considering the material placed before the Court and also the documents filed by the Management, the Labour Court allowed the ID in part by setting aside the order

of removal, but however, directed him to be reinstated into service without backwages and without continuity of service. Challenging the same, the present Writ Petition came to be filed.

The main ground urged by the learned counsel for the petitioner is that the charge for which the petitioner was tried and the award given by the Labour Court are totally inconsistent to each other. The same is strenuously opposed by the Standing Counsel for the respondent Corporation on the ground that no prejudice is caused to the petitioner as the evidence available on record clearly indicate that he did not give tickets to the passengers.

In order to appreciate the rival submissions, it may be useful to refer to the charges which are framed by the enquiry officer, more particularly, charge Nos.2 and 3, which read as under:

“2. For having issued un-connected ticket Nos.669/337731 to 337732 E-2 of Rs.3/- denomination to two passengers (wife and husband) boarded your bus at Ramachandrapuram road stage No.5/6 and bound for Ayyaparajugudem stage No.6/7 on 8-7-99, while you have been conducting 11-30 hours Kommugudem service with vehicle no.AP9/Z 4074 and which were not pertaining to your S.R.No.4992650 of the service, which amounts to mis-conduct vide Regulation No.28 (xxxii) of A.P.S.R.C.T.C, Employees (Conduct) Reg. 1963.

3. For having issued ticket Nos.669/337731 to 337732 E-2 of Rs.3/- denomination to two passengers who were found travelling in your bus on 8-7-1999 while you were conducting 11.30 hours Kommugudem service, whereas these tickets were found also issued by you while you have conducted 06.30 hours Eluru-Lankalapalli service on 4-7-1999 with S.R.No.4967769 against stage No.13 and thus re-issued the tickets which were

once issued, which is a mis-conduct vide Regulation No.28 (xxiii) of A.P.S.R.T.C., Employees (Conduct) Reg.1963.”

Insofar as charge No.2 is concerned, it was found during the course of enquiry that Sri K.Veera Venkata Ramu who was one of the passengers of the bus categorically denied the earlier statements made by him at the time of spot inspection. He gave a different statement giving a go-bye to the earlier version.

Similarly, in respect of charge No.3, Sri K.V.V.Ramu, who was also one of the ticketless passengers travelling on that day stated that he travelled in the bus on tickets which were issued previously. Both the witnesses who were examined did not identify the petitioner as conductor for the previous journey.

Inspite of there being discrepancy in the evidence of two passengers who were examined with the statements recorded at the spot, the enquiry officer found that ticket Nos.669/337731 and 337732, which were issued to the passengers on 04.07.1999 near Eluru-Lankalapalli route were re-issued on 08.07.1999 and as such held that the charges stands proved. However, during the course of proceedings in I.D., the Labour Court held as under:

“The passenger who produced unconnected tickets was examined during enquiry at the instance of the petitioner. he stated that he thought that his wife would purchase ticket. His wife also thought that he would purchase tickets. At the time of the check, he produced old tickets from his pocket. The evidence clearly shows that he produced unconnected tickets at the time of check. The petitioner admitted that he did not issue tickets to the two passengers. Not issuing tickets to

passengers is clear violation of duty. The statement of the witness that he produced old tickets at the time of check cannot be believed. It is the responsibility of the petitioner to issue tickets to all the passengers. I, therefore, hold that the charges one and two against the petitioner are proved, but punishment of removal of the petitioner from the service is not in proportion to the charges. Hence, I answer the point accordingly.”

The charges which were framed against the petitioner were with regard to collection of money and not issuing correct tickets. But whereas, the findings is that the petitioner neither issued tickets nor collected any amount which amounts to misconduct. It may be true that the said act may amount to misconduct, but, such a charge should have been framed by the enquiry officer and an opportunity to explain the contents of the charge should have been given to the petitioner.

From the above, it is clear that findings given by the Labour Court holding that the petitioner was guilty are contrary to the contents of charge Nos.2 and 3 framed against the petitioner.

At this stage, learned counsel for the petitioner submits that the matter may be remanded back to the authorities to frame appropriate charges and give opportunity to the petitioner to explain the same. I am afraid the same cannot be accepted for the reason that the Corporation has not filed a Writ challenging the order of the Labour Court. When the Writ Petition is filed by the workman questioning the denial of back wages and continuity of service, remanding the matter back for framing of additional charge would not arise. Further, from

a perusal of the records it is clear that the petitioner has already retired from the services.

For the aforesaid reasons, the Writ Petition is allowed in part i.e., only to the extent of back wages and consequential benefits. Having regard to the circumstances, there shall be no order as to costs.

Consequently, the Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

04.02.2016
vhb