

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5107 OF 2009

O R D E R:

The order dated 27.12.2005 in I.D.No.23 of 2003 passed by the Labour Court-II, Hyderabad, is challenged in this Writ Petition.

The petitioner was appointed as the Conductor in Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation') on 10.06.1981. He was charge-sheeted on the allegation that on 13.07.2000, while conducting the bus bearing Registration No. AP 10 Z 2228 between Sholapur to Siddipet, a check was conducted by the Travelling Ticket Inspectors (TTIs) and it was found that the petitioner was failed to observe the rule "Issue & Start" and also having collected Rs.308/- from a batch of four passengers, failed to issue tickets to two passengers, who were traveling from Sholapur to Zahirabad. After conducting inquiry, he was removed from service. The petitioner after exhausting appeal and review before the appellate authorities raised an Industrial Dispute vide I.D. No.23 of 2003 on the file of the 1st respondent and the same was also dismissed vide Award dated 27.12.2015, confirming the punishment imposed on him by the authorities. Aggrieved by the Award of the Labour Court, the petitioner filed the present writ petition.

A counter affidavit was filed by the 2nd respondent supporting the impugned Award passed by the 1st respondent.

The learned counsel for the petitioner while submitting that the reason given by the Labour Court is totally erroneous as the checking officials failed to follow the instructions given in Circular

No. PAD 125/78-79, dated 01.02.1979 and also submitted the following:-

- i) Hon'ble Supreme Court in catena of decisions held that when the complainants/passengers have not been examined in the departmental enquiry, the entire proceedings are liable to be vitiated. Here the 1st respondent-Labour Court was failed to see that no passengers were examined in the Departmental Enquiry.
- ii) The 1st respondent was failed to see that in the Departmental enquiry no passengers were examined, To support the contention, the learned counsel for the petitioner had placed reliance on the enquiry report wherein the fact of apart from the evidence of the 1st respondent, the evidences of five witnesses were taken into consideration. The learned counsel for the petitioner further submits that inasmuch as the Tribunal went on **only** wrong premises, the matter requires to be interfered **and** the case may be remanded to the Labour Court for fresh consideration.

On the other hand, the learned standing counsel for the Corporation submits that having not satisfied with the explanation of the petitioner, a detailed enquiry was ordered, in which the petitioner availed the opportunity of examination, cross-examination of the witnesses and the Inquiry Officer, ultimately found the petitioner guilty of all the charges and finally removed him from service, therefore, after perusing the objections of the petitioner on the enquiry report and his explanation to the show cause notice, the 1st respondent has confirmed the orders of the Corporation Authorities and passed the impugned Award. He

further submits that on five occasions the petitioner was punished with stoppage of annual increments for his involvement in cash and ticket irregularity cases. Therefore, he pressed for dismissal of the writ petition.

Having considered the respective submissions, this Court carefully perused the entire record. The main contention of the petitioner is that during the Departmental enquiry no passengers were examined. As a matter of fact, in the impugned order it was categorically noted that the Inquiry Officer examined two checking officials i.e., P.S.N. Rao, TTI and K. Krishna, TI-II and the petitioner did not choose to cross-examine P.S.N.Rao and informed to the Inquiry Officer that he does not want to cross-examine the TTI, but he cross-examined one K. Krishna with respect to the Charge No.3 framed against him, and finally, a finding is recorded that the examination of passengers is not compulsory as entries in S.R. is sufficient. Further, the contention of the 2nd respondent-Corporation that the petitioner was habituated to commit cash and ticket irregularities resulting in loss to the exchequer of the Corporation, which fact was not denied by the petitioner.

Here it is to be noted that the Corporation is a public sector undertaking, which runs mainly on the revenue generated from the services operated by it. The personnel employed in the Corporation are under an obligation to maintain discipline and integrity. The moral turpitude on the part of the employees of the Corporation would certainly give a dent to the name and fame of the Corporation and hence, it has to be viewed seriously. In this case, after thorough Inquiry the petitioner was removed from service and previously also the petitioner was imposed with the penalty of

deferment of increments for five times for his involvement in cash and ticket irregularity cases, which proves that the petitioner was habituated to commit the similar irregularity. Therefore, this Court is of the opinion that the Industrial Tribunal has rightly exercised its discretion and dismissed the Industrial Dispute.

Keeping all these factors in view, this Writ Petition is liable to be dismissed as it does not merit any consideration by this Court in exercise of its jurisdiction under Article 226 of the Constitution. It is accordingly, dismissed. There shall be no order as to costs.

Consequently, the miscellaneous petitions, if any shall also stand dismissed.

Dated:07.09.2016
Ssv

CHALLA KODANDA RAM, J

