

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.1372 of 2010

ORDER:

Heard the learned Standing Counsel for petitioners Corporation, the learned counsel for first respondent and the learned Government Pleader for Labour (TS) for second respondent.

2. The first respondent was engaged as a casual Conductor on daily wage basis in the petitioner Corporation during the year 1990 and his services were regularized thereafter. While the first respondent was conducting in bus No.1263 on route Tandur to Chincholi, on 03.02.2001 at about 17.30 hours at stage No.8, the checking officials exercised a check and noticed that the first respondent committed certain serious cash and ticket irregularities and they prepared a charge memo on the spot of which the first respondent acknowledged the same. A charge sheet was issued to the first respondent on 03.03.2001 framing three charges. Since the explanation submitted by the first respondent was found to be not satisfactory, a regular enquiry was ordered. The Enquiry Officer submitted his report holding that the charges leveled against the first respondent are proved. Later, the disciplinary authority called for objections on the enquiry report from the first respondent, by letter dated 18.06.2001, to which the first respondent submitted his objections. The disciplinary authority came to the provisional conclusion that the charges leveled against the first respondent stood proved for which a penalty of removal from service was proposed to be imposed and accordingly a show cause notice was issued to the first respondent on 10.07.2001. Though the first respondent submitted his explanation, since no fresh points were noticed, the disciplinary authority passed final orders removing the first respondent from service, by order dated 05.09.2001. The appeal preferred by the first respondent was also rejected by the Divisional Manager on 17.11.2001, but in the revision preferred before the first petitioner herein, the first respondent was directed to be taken

into service as a fresh Conductor, by order dated 13.03.2002. However, after lapse of four years, the first respondent filed I.D.No.79 of 2009 (old I.D.No.68/2006) before the second respondent challenging the order of removal and also reinstatement as a fresh Conductor. The second respondent passed an Award on 20.08.2009 setting aside the order of removal dated 05.09.2001 and also the order of the first petitioner dated 13.03.2002. The second respondent also directed to count the services of the first respondent from the date of his suspension order i.e., 03.03.2001 and to pay all attendant benefits without backwages. Challenging the same, the present writ petition is filed.

3. The learned Standing Counsel for the petitioner Corporation submits that the second respondent erred in setting aside the order of removal dated 05.09.2001 in spite of availability of the statement of the passenger and the acknowledgment of the first respondent on Ex.M.3 dated 03.02.2001.

4. The second respondent noticed the said Ex.M.3 and observed that the contents of it were written by some other person, but the signature of the passenger was found at the bottom of the contents. The first respondent produced the written statement of the passenger which was marked as Ex.M.15 and it is in favour of the first respondent. In the enquiry report, which was marked as Ex.M.16, there was no discussion about Ex.M.15. Taking these facts into consideration, the second respondent gave a finding that the enquiry report was bad in law. The charges leveled against the first respondent relate to the allegation of collection of an amount of Rs.2/- from a passenger and issuing a ticket and using the same to another passenger, who boarded the bus at another station. The second respondent noticed that the said charge was not proved as the Enquiry Officer, in spite of lack of evidence, submitted his report holding that the charge as proved. In those circumstances, the second respondent set aside the order of removal

dated 05.09.2001 and also the order of the first petitioner dated 13.03.2002.

5. Since the Award of the second respondent is based on the material produced before it, this Court is not inclined to re-appreciate the said evidence and the Award does not suffer from any error on the face of the record. Hence, the writ petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 06.04.2016
TJMR