

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.4033 of 2003

ORDER:

This writ petition is filed challenging order dated 11.03.2002 in I.D.No.145 of 2001 on the file of Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2. Petitioner herein worked as conductor in APSRTC, S.Kota depot and while he was performing his duties on Bus bearing No.AP 9Z 8891 as conductor on 12.09.1999, which was running from S.Kota to Tamarapalli, a surprise check was conducted at Stage No.2 Dharmavaram and at the time of checking, petitioner herein was found that he was re-issued two tickets of Rs.2.50ps denomination to two passengers and also re-issued two luggage tickets of Rs.0.50ps to one of those two passengers and that petitioner left the vehicle without intimation, that resulted loss of revenue to the corporation. On these allegations, a charge memo was issued to petitioner and a domestic enquiry was conducted in respect of the charges levelled against petitioner and basing on enquiry report petitioner was removed from service on 24.07.2000. Petitioner preferred appeal to the appellate authority and the same was rejected on 01.11.2000, thereafter, he preferred review to the revisional authority, which was also rejected on 29.01.2001. Thereafter, he preferred an Industrial Dispute before the labour court and the presiding officer of the labour court on a consideration of material on record held that misconduct proved against the employee i.e., petitioner herein was grave in nature and punishment imposed is in proportionate to the proved misconduct and holding so dismissed the industrial dispute. Questioning the same, present writ petition

is filed.

3. Heard arguments.

4. Advocate for petitioner submitted that labour court has not properly appreciated the material on record and for a small irregularity involving Rs.5.50ps, petitioner was removed from service and the punishment imposed against petitioner is harsh and disproportionate to the alleged misconduct. He further submitted that labour court without taking facts and circumstances of the case into consideration, mechanically confirmed the order of removal, and therefore, the same is liable to be set aside and consequently to direct respondent to reinstate petitioner into service with all consequential benefits. He further submitted that petitioner is now more than 55 years and on account of punishment given to him, he lost his service and a lenient view may be taken.

5. On the other hand advocate for respondent-Corporation submitted that the present irregularity is a second incident and earlier also petitioner was involved in cash and ticket irregularities, for which, he was suspended on 02.8.1998 and thereafter he was punished with deferment of annual increment for a period of two years with cumulative effect and in spite of that he involved again in the above referred irregularity of re-issuing tickets and caused loss to the corporation and the labour court has rightly considered the material on record and there is no error in the award passed by the labour court and that the writ is devoid of merits.

6. Now the point that would arise for my consideration in this writ petition is :

Whether the Award dated 10.03.2002 of the Labour Court is illegal, arbitrary and against principles of natural justice as claimed by petitioner?

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POINT :

7. As seen from the material, petitioner herein joined as conductor in the year 1998 and involved in cash and ticket irregularities once in 1998 and for the second time in the year 1999. In respect of first incident, petitioner was given a minor punishment of deferment of increment for a period of two years with cumulative effect and in respect of second incident, he was given punishment of removal. Now the contention of petitioner is that punishment of removal is disproportionate to the misconduct alleged and the money involved is only Rs.5.50ps. While considering the misconduct and punishment the past record of the employee is also to be seen within less than two years of his service, petitioner involved in cash and ticket irregularities twice i.e., first time in the same year of joining service and second time in the very next year. In such circumstances, contention of advocate for petitioner that the punishment of removal is disproportionate to the charge of misconduct and shocking to the conscious cannot be accepted. Labour court on a thorough examination of the material including the evidence on record held that misconduct of cash and ticket irregularities is duly proved. While examining the misconduct proved with reference to punishment given, labour court recorded that, as petitioner is involved in a severe misconduct and considering his dishonest nature held that removal of punishment is appropriate.

8. On a scrutiny of the material, I do not find any wrong in the order of the labour court, nor any arbitrariness in the award passed by the labour court.

9. For these reasons, I am of the view that there is neither

arbitrariness nor illegality nor any violation of principles of natural justice in the award passed by the labour court and that there are no merits in this writ and liable to be dismissed.

10. Accordingly, this Writ Petition is dismissed. No costs. Miscellaneous petitions, if any pending, in this writ petition shall also stand closed.

S. RAVI KUMAR, J

Date: 03-02-2016.
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