

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

Writ Petition No.16644 of 2007

ORDER:

The Depot Manager, APSRTC, Secunderabad Contonment Bus Depot has invoked the jurisdiction of this Court under Article 226 of the Constitution of India, aggrieved by the award passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad in I.D.No.84 of 2004 dated 09.11.2006.

The first respondent was appointed as a Conductor in the petitioner-Corporation on 03.12.1996. A charge-memo dated 28.04.2004 was issued to her alleging that she had reissued a ticket for Rs.3/- to a passenger who boarded the bus at Raja Deluxe and was bound for Secunderabad Station inspite of collecting the requisite fare of Rs.3/-; the said ticket was already shown and counted in the S.R. dated 28.04.2003 against stage No.7; and she had failed to collect the fare and issue tickets to two individual passengers, found travelling without tickets, who had boarded the bus at RTC 'X' roads and were bound for Secunderabad Station. The enquiry officer found the first respondent guilty of the charge and, after a copy thereof was furnished to her, the punishment of removal from service was imposed on the first respondent on 13.11.2003.

The first respondent invoked the jurisdiction of the Tribunal under Section 2-A(2) of the Industrial Disputes Act. In the award, under challenge in this Writ Petition, the Tribunal

held that the charge of misappropriation was not established. However, the charge regarding failure to issue two tickets to two passengers was held established. The order of removal dated 13.11.2003 was set aside, and the petitioner herein was directed to reinstate the first respondent into service with continuity of service, but without back wages.

Sri K.Madhava Reddy, Learned Counsel for the petitioner-Corporation, would submit that the first respondent was earlier found guilty of a similar charge, and was hitherto imposed punishment; while she was reinstated into service in the year 2007, in compliance with the impugned award of the Tribunal, she was, thereafter, again removed from service in March, 2012 for cash and ticket irregularities; and she is no longer in service since then. Learned Counsel would submit that, bearing in mind the conduct of the first respondent, the finding recorded by the Tribunal absolving her of the charge of misappropriation was wholly unjustified; and the Tribunal ought not to have directed her reinstatement with continuity of service.

The jurisdiction, which this Court exercises under Article 226 of the Constitution of India against awards passed by the Industrial Tribunal, is extremely limited. Findings of fact recorded by the Tribunal are not amenable to re-appreciation, nor would this Court substitute its views for that of the Tribunal and record independent findings on the material on record. It is only if the findings recorded by the Tribunal are found to be perverse, or as based on no evidence, would this Court be

justified in interference. It is not even contended before this Court that the findings recorded by the Tribunal suffer from any such infirmity. Consequently, the punishment as substituted by the Tribunal must be considered on the basis that only the charge, of failure to issue tickets to two passengers, has been established.

As a consequence of the award of the Tribunal dated 09.11.2006, the first respondent has been denied back wages for the period from 13.11.2003, when she was removed from service, till the date of the award i.e. for a period of nearly three years. Denial of wages for a period of three years, for the charge held established of failure to issue tickets to two passengers, cannot be said to be a punishment which would shock the conscience of this Court for it is only then would this Court interfere.

Viewed from any angle, I find no error in the award of the Tribunal necessitating interference under Article 226 of the Constitution of India. The Writ Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, ACJ.

Date:14.10.2016.

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