

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 6733 OF 2006

ORDER:

This Writ Petition is filed to call for the records relating to the Award dated 07.01.2003 in I.D.No. 123 of 2000 on the file of the 5th respondent Industrial Tribunal-cum-Labour Court, Warangal.

The brief facts are as follows:-

Petitioner herein is the state-owned Road Transport Corporation. Respondents 2 to 5, who are the wife and the daughters of the deceased 1st respondent – Conductor, filed I.D. No. 123 of 2000 on the file of the Industrial Tribunal-cum-Labour Court, Warangal to set aside the order of removal, dated 01.03.1994 passed against the 1st respondent workman, to direct the respondent therein, who is the petitioner herein, to pay full back-wages and attendant benefits of the workman from 01.03.1994 to 12.10.1996 and to appoint one of them in any suitable post in the respondent Corporation.

The deceased 1st respondent, while conducting the bus No. 5812, on 18.11.1993, on route *Khammam-Vastavai*, at stage No. ½ *Kothur*, a check was exercised and the checking officials found certain cash and ticket irregularities. A charge memo with the following four charges, was issued to him:

- 1) For having violated the rule issue and start, which is a misconduct under Reg. No. 28(xxxiii) of A.P.S.R.T.C. Employees' (Conduct) Regulations, 1963.
- 2) For having failed to issue tickets to a batch of two passengers in spite of collecting the requisite fare of

Rs.1.50 Ps. Each (Rs.1.50 x 2 = 3.00) at the boarding point itself, who boarded the bus at *Khammam* bus station and found alighting without tickets at *Kothur* i.e. ex. stages 1 to ½, which is a misconduct under Reg. 28(xxxi) of A.P.S.R.T.C. Employees (Conduct) Regulations, 1963.

- 3) For having failed to issue tickets to a batch of three passengers in spite of collecting the requisite fare of Rs.1.50 (Rs.1.50 x 3 = Rs.4.50) at the boarding point itself, who boarded the bus at *Musthafanagar* and found alighting without tickets at *Kothur* i.e. ex. stages 1 to ½ which is a misconduct under Reg. No. 28(xxxi) of A.P.S.R.T.C. Employees (Conduct) Regulations, 1963.
- 4) For having failed to close the ticket tray numbers of all denominations, against the stage No. 2, hence the checking officials have marked 'KKK' in the SR which is a misconduct under Reg.No. 28(xxxii) of APSRTC Employees' (Conduct) Regulations, 1963.

In the domestic enquiry, the deceased respondent was found guilty and he was removed from service by order dated 01.03.1994 and the intra-departmental Appeal preferred thereagainst also came to be dismissed. Thereafter, he approached the Labour Court, Warangal by filing I.D.No. 123 of 2000. While the matter is pending, he passed away on 12.10.1998. Hence, his legal representatives, Respondents 2 to 5 herein, have come on record. The Labour Court, having analysed the material on record, on appreciation of the evidence placed before it, through Award dated 07.01.2003 impugned in this Writ Petition, set aside the order of removal passed against the deceased Satyanarayana. It was directed that the period from the date of his removal i.e. 01.03.1984 to the date of death i.e. 12.10.1998 be treated as

continuity of service and that the arrears be paid to the legal heirs. Challenging the said Award, the Corporation has filed this Writ Petition.

A counter-affidavit has been filed on behalf of Respondents 2 to 5, denying the averments contained in the affidavit filed in support of the Writ Petition. It has been stated that the petitioner in order to avoid / delay the payment, has moved this Writ Petition.

Sri B. Mayur Reddy, learned Standing Counsel appearing for the petitioner Corporation submits the deceased – Conductor violated the rule '*issue and start*'. Emphasising the fact that the Courts, in a catena of judgments, have repeatedly held that once a charge is proved, intentions have no role to play, the learned Standing Counsel finds fault with the conclusion arrived at by the Labour Court that the charged employee has no *mala fide* intention to gain unlawfully.

Sri B. Parameswara Rao, learned counsel for Respondents 2 to 5 supports the Award and submits that the same does not call for any interference.

To appreciate the contentions put-forward by the respective parties, it is better to have a glance at the evidence recorded by the Labour Court. During the course of evidence, it was emerged that as against 45, the bus was carrying 57 passengers. Some passengers have categorically stated that they had paid the fare and the Conductor was about to issue tickets and at that moment, the TTIs. came to inspect the bus. As a matter of fact, in the cross-

examination, the TTIs. also supported the case of the deceased workman stating that the Conductor was in the process of issuing tickets. The Labour Court had taken into consideration all the statements of the TTIs. coupled with the statements recorded at the earliest point of time that the deceased Conductor was in the process of issuance of tickets. Further, in the present case, the allegation is that three passengers have been found alighting the bus without tickets. However, the said passengers had deposed that they had paid the fare and the Conductor was about to issue tickets. Taking these aspects into account and consideration, the Labour Court had observed that “the conductor had no *mala fide* intention to gain unlawfully”, which cannot be found fault with by this Court.

So far as the charge that the respondent – workman violated the rule ‘*issue and start*’ is concerned, it may be noticed that only three out of 57 passengers are to be issued the tickets. It is not uncommon that to avoid delay and to reach the destination in time, the Conductors issue tickets while the bus is in motion. In the present case also, the respondent – Conductor had been issuing the tickets while the bus is moving. Therefore, it cannot be said that the respondent had violated the rule ‘*issue and start*’ which attracts the misconduct under Regulation 28(xxxiii) of the 1963 Regulations.

In view of the above discussion, it cannot be said that the finding of facts recorded by the Labour Court are perverse, hence, the Award dated 07.01.2003 does not call for any interference by

this Court in exercise of its jurisdiction under Article 226 of the Constitution.

The Writ Petition therefore, stands dismissed. No costs.

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

CHALLA KODANDA RAM, J

27th December 2016

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