

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WP No.769 OF 2009

ORDER::

This writ petition is filed assailing the award dated 16-03-2006 passed by the 4th respondent in confirming the order of the administrative authorities imposing punishment of removal from service on the petitioner.

2. Facts stated are; the petitioner was appointed as Conductor in the year 1986 and working as such in Nidadavolu Depot, on 18-01-1999 while conducting duties on the route Nidadavolu-Secunderabad Special service bus, it was alleged, the petitioner issued three tickets of Rs.100/- denomination without punching them and accounting the same in the SR. It was also alleged that the petitioner collected an amount of Rs.91/- from a passenger and issued tickets of Rs.70/-, Rs.20/- and Rs.1/- denominations, but failed to punch on Rs.70/- denomination ticket and not accounted the same in the SR. The further charge alleged against the petitioner was that he collected an amount of Rs.164/- from a passenger and issued tickets of Rs.100/-, Rs.50/-, Rs.10/- and Rs.4/- denominations and not accounted the ticket of Rs.100/- denomination in the SR.

3. Based on these allegations, domestic enquiry proceeded and based on the enquiry report, the petitioner was removed from service with effect from 02-06-1999. The petitioner unsuccessfully

filed appeal and revision before the administrative authorities which confirmed the order of the primary authority. Thereafter, the petitioner raised industrial dispute being ID No.191 of 2001 on the file of 4th respondent-Labour Court, Guntur. By the impugned order, the Court below, while analyzing the evidence brought on record by the official respondents, particularly the evidence of TTI who along with another, conducted check on that day seems to have deposed that they found a batch of five passengers alighting the bus at Suryapet with the tickets denominations noted above and found that the petitioner did not punch tickets of Rs.100/- denomination and Rs.70/- denomination respectively and also failed to account the same in the SR. Curiously, the said witness was not cross examined by the petitioner and the evidence that the petitioner did not punch tickets of Rs.100/- and Rs.70/- and also failed to account the same in the SR sheet remained un-rebutted and understood this, the Court below confirmed the punishment imposed on the petitioner and declined to exercise any discretion vested in it under Section 11-A of the Industrial Disputes Act. Hence, this writ petition.

4. Learned counsel for the petitioner strenuously contended that the Court below failed to exercise the discretion in proper perspective as the punishment is disproportionate to the charges levelled against the petitioner. It is stated that though the

petitioner has not punched on the tickets of Rs.100/- and Rs.70/-, there was no specific allegation as to his intention to appropriate said amounts and cause loss to the Corporation. On the other hand, learned Standing Counsel appearing for the respondent-Corporation contended that charges of misappropriation are proved beyond doubt and all the authorities including the Court below concurrently held that the charges are proved beyond doubt, in the circumstances taking any sympathetic view would tend to misplaced sympathy and may not be shown in case of misappropriation of amounts in ticket irregularities. Reliance is placed on an un-reported decision of this Court rendered in WP No.616 of 2004, in support of his contentions.

5. As seen from the order of the Court below, the petitioner having issued tickets of various denominations, failed to punch on the tickets of Rs.100/- and Rs.70/-, more so failed to account the same in the SR. It is clear from the record that the petitioner deliberately failed to punch higher denomination tickets obviously to re-issue the same. Though the intention to misappropriate amounts is not clear and manifest, but it can be conclusively inferred by the conduct of the petitioner that he having issued tickets and collected the fare did not punch them and enter the same in the SR sheet which itself goes to show that had the check had not been effected by the TTIs, the petitioner would have gone

scout free. Judgment cited by the learned Standing Counsel for the respondent-Corporation in WP No.616 of 2004, it was observed by this Court, while adverting to the decisions of the Supreme Court, that when charges are held proved, allowing any premium would amount misplaced sympathy. In the case on hand also the charges levelled against the petitioner are held proved and pertain to ticket irregularities to misappropriate the amounts. In the circumstances, this Court is not inclined to interfere with the discretion exercise by the Court below in confirming the punishment imposed on the petitioner. The writ petition is meritless and it is accordingly dismissed. Miscellaneous petitions, if any pending in this case shall also stand dismissed. No order as to costs.

Dated:28-10-2016
NRG

A.RAJASHEKER REDDY, J

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY



W.P. No.769 OF 2009

Date: 28-10-2016

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