

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No 869 of 2011

Dated : 4.8.2016

Between:

B,A Rahiman S/o late Vahab Miah
APSRTC driver
R/o Atmakur, Kumool district

.. Petitioner

And

The APSRTC
Rep by its Managing Director,
Musheerabad, Hyderabad and others

.. Respondents

This Court made the following :

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ORDER :

Petitioner is driver of respondent corporation. On 21.6.2005 he was entrusted with responsibility of conducting bus from Koilakuntla to Hyderabad, which was one-man service and petitioner was also entrusted with the responsibility of issuing tickets to the

passengers travelling in the bus. Petitioner completed the journey to Hyderabad. While handing over the bus to the successor driver at Hyderabad, the successor driver having noticed that Tickets Issuing Machine (for short referred to as TIM) was not working, he complained to the concerned authorities. At the end of the journey petitioner handed over cash of Rs.940/- and police warrant worth Rs.111/-, total of Rs.1051/-. The TIM was sent for repairs to M/s. Analogic Technologies Private Limited (for short the company) and on conducting the repairs the executive of the company reported that statement generated from the black-box of the TIM would show that the petitioner issued tickets worth Rs.2320/-. In view of the said report, the competent authority noticed that petitioner remitted less cash than actually collected by him. Disciplinary proceedings were initiated against petitioner, which resulted in imposing the punishment of removal from service by order dated 12.9.2005. The order of the disciplinary authority was confirmed by the appellate authority. Aggrieved thereby, petitioner raised Industrial Dispute and the same was registered as I.D No. 163 of 2006 on the file of the Industrial Tribunal cum Labour Court, Anantapur (for short Labour Court). The same came to be disposed of by order dated 6.10.2010. The Labour Court rejecting the claim of the petitioner and confirmed the order of removal passed by the disciplinary authority. Aggrieved thereby, this writ petition is filed.

2. Learned counsel for petitioner submits that the award of the Tribunal is liable to be set aside on the sole ground that it does not assign reasons in support of the decision. Except for narration of the chronology of events, contentions, orders of the disciplinary authority and appellate authority, no other reason is recorded. None of the contentions urged by the petitioner were considered nor any findings were recorded. He further submits that entire disciplinary action is based on alleged report by the company holding that TIMS registered issuance of tickets worth Rs.2320/-, whereas petitioner actually remitted less amount. According to the learned counsel, the report of the private company was not marked as a document and the representative who has repaired the machine and prepared the report from the TIM was not examined as a witness. The document from the private company and the statement of the representative of the said company were crucial for the entire issue. The private representative of the company was also not examined during the domestic enquiry.

3. The standing counsel representing the respondent corporation justifies the action taken against petitioner. According to him, when responsibility to issue tickets was entrusted to petitioner, he ought to be truthful to the employer in remitting the entire amount collected by him. The statement generated from TIM would show that petitioner has not remitted the full amount collected by him and the same amounts to misappropriation and punishment was validly imposed.

4. A bare perusal of the award passed by the Labour Court would show that there was no discussion on the allegations made against the petitioner and no findings are recorded on the contentions of the petitioner. It appears to be an extract of respective

contentions and record of the disciplinary proceedings. It is also not in dispute that the report generated from TIM and the person responsible for repairing the machine and generation of the report were not examined in the domestic enquiry as well as before the Labour Court. As entire issue revolves on the question of issuance of proper tickets, same being recorded in the TIM, report generated from the TIM and person responsible for repairing the machine are crucial document and witness respectively, which ought to have been considered by the Labour Court.

5. Having regard to the same, the award is liable to be set aside and accordingly set aside and matter is remitted to the Labour Court for consideration of the dispute afresh by affording due opportunity. The respondent corporation shall place before the Tribunal the report generated from TIM. The Labour Court shall afford due opportunity to petitioner to controvert the report generated from TIM. Having regard to the fact that termination of service related to the year 2005, the Labour Court is requested to expedite the hearing and dispose of the Industrial Dispute as expeditiously as possible, preferably within a period of four months from the date of receipt of copy of this order.

6. Accordingly, the writ petition is allowed. No costs. Miscellaneous petitions if any pending shall stand closed.

Date : 4.8.2016
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