

**HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**WRIT PETITION No. 3993 OF 2007**

**ORDER:**

Assailing the correctness of the order dated 22.03.2006 of the 3<sup>rd</sup> respondent Regional Manager to the extent of imposing major punishment of reducing his pay by one incremental stage for a period of two years, which would have the effect of postponement of his future increments and treating the period of suspension as 'not on duty', the petitioner has filed this Writ Petition.

The brief and undisputed facts are as follows:

The petitioner joined the services of the erstwhile Andhra Pradesh State Road Transport Corporation as a Conductor in 1985. While he was conducting bus No. 411 on Route No. 137 (Birbanbagh-VST), on 06.04.2003 at about 11.35 hours, at stage No.3 (L.B. Stadium), a check has been exercised by the checking squad and he was found to have committed certain cash and ticket irregularities. Hence, he was placed under suspension on 10.04.2003 and served with a charge memo with the following charge:

“ For having issued ticket bearing No. 124/406099 of Rs.6/0 denomination to a passenger found traveling from Agapura to VST, Ex.stages ½ to 5/6 duly collecting RS.5/-. Though Rs.6/- denomination was opened in your STAR way bill you have failed to account the same in the S.R.”

After considering the explanation submitted by the petitioner on 15.04.2003 and the consequent enquiry report dated 23.10.2003, the 1<sup>st</sup> respondent Depot Manager *vide* proceedings dated 03.12.2003, removed the petitioner from service and the said order was confirmed by the 2<sup>nd</sup> respondent on 23.12.2004. He

questioned the same in Writ Petition No. 5234 of 2004, which was disposed of by this Court on 31.03.2004 directing the disciplinary authority to pass appropriate orders after considering the explanation said to have been submitted by the petitioner on 29.11.2003. Pursuant to the said direction, the disciplinary authority considered the explanation of the petitioner and then removed him from service on 01.06.2004. On Appeal, the said order of removal was confirmed by the Appellate Authority, the 2<sup>nd</sup> respondent herein *vide* his proceedings dated 24.01.2005. He, therefore, preferred Revision before the 3<sup>rd</sup> respondent Regional Manager, who, after taking into account and consideration the fact that the petitioner issued a ticket of higher denomination to the passenger duly endorsing on the ticket and his long association of about 15 years with the Corporation, took a lenient view and modified the punishment of removal from service to reinstatement into service, duly reducing his pay by one incremental stage for a period of two years which would have the effect of postponement of his future increments. The interregnum period from the date of removal till the date of his reporting to duty was directed to be treated as 'not on duty'. Aggrieved by the said modification, this Writ Petition is filed.

Learned counsel for the petitioner submits that the petitioner has not committed any misappropriation, either temporary or permanent, of finances of the Corporation, as alleged, attracting the provisions under Regulation 28(vi)(a) of the APSRTC Employees' (Conduct) Regulations, 1963.

Heard Sri N. Vasudeva Reddy, learned Standing Counsel for the Corporation.

In this backdrop, it is relevant to peruse the explanation submitted by the petitioner. It has been stated therein that while issuing tickets to the passengers, ticket No. 124/406099 of Rs.6/- denomination was mutilated and was in bad condition, hence, it was not possible to preserve the damaged ticket in the block. While so, one passenger, who boarded the bus at *Agapura* destined to *VST*, was issued that damaged ticket by collecting the actual fare of Rs.5/- and the said fact was endorsed on the reverse of the ticket also, but however, the same was not entered in the SR. In the meantime, the checking officials boarded the bus and seized the SR. To that extent, the explanation submitted by the petitioner was found to be genuine. But, it is presumed that if not the check took place, the petitioner would not have accounted for the said Rs.6/- until the end of the series of Rs.6/- tickets. Therefore, the authorities came to the conclusion that there was temporary misappropriation. For the sake of argument, even if it is to be assumed that the petitioner had not accounted for, at that particular point of time, he would have done it on the next day. For that, he cannot be said to have committed temporary misappropriation.

As a matter of fact, it is borne out by record that the petitioner, though is a low-paid employee, has been contributing his might to the social cause on day to day basis and the same has been appreciated by the department as well as the other state authorities. In that view of the matter, the punishment, which has been imposed on the petitioner on the ground of temporary misappropriation, can be considered as inappropriate and is not commensurate with the misconduct alleged against the petitioner.

The punishment, which has been awarded to the petitioner being disproportionate and a major punishment, having cumulative effect, this Court is of the opinion that the same is required to be given consideration afresh.

Inasmuch as the Writ Petition came to be admitted in 2007 and was kept pending till date, I do not consider it appropriate to relegate the petitioner to avail the remedy of approaching the Labour Court since what all has been required to be considered is the proportionality of the punishment, which can be considered by the respondent authorities themselves, especially keeping in view the conduct of the petitioner all through.

Accordingly, the matter is remanded to the 3<sup>rd</sup> respondent for consideration of the case afresh with respect to the punishment imposed on the petitioner. The 3<sup>rd</sup> respondent is directed to consider and pass appropriate orders thereon as expeditiously as possible.

With this, the Writ Petition stands allowed. No costs.

Consequently, the miscellaneous Applications, if any, shall stand disposed of.

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**CHALLA KODANDA RAM, J**

24<sup>th</sup> November 2016

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