

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 7442 of 2015

ORDER:

Heard learned counsel for the petitioners and learned counsel for respondent No.2.

Respondent No.2 was appointed as Conductor in the petitioner-Corporation in the year 1973. While he was working in Jaggaiahpet Depot operating the service on the route Vijayawada-Jaggaiahpet, on 20.04.2005, a check was conducted by the Travelling Ticket Inspectors, Headquarters Enforcement Squad, Kothagudem at Stage No.1. Holding that respondent No.2 committed certain cash and ticket irregularities, a charge memo dated 28.04.2005 was issued to him framing the following charges:

“Charge No.1: For having reissued the ticket Nos.307/592879 and 892 of Rs.30/- denomination (E2) and ticket Nos.172/857734 and 736 of Rs.1/- denomination (E2) tickets which were already issued and accounted against Stage No.1 in the previous trip i.e. 8-20 hours Jaggaiahpet-Vijayawada, which constitutes misconduct in terms of Reg.28 (xxiii) of APSRTC Employees (Conduct) Regulations, 1963.

Charge No.2: For having threatened, assaulted and bite the Travelling Ticket Inspectors, while they were checking the bus and obstructed them from carrying out their legitimate duties, while you were performing your duty which constitutes misconduct in terms of Reg. (xi) and (xxxi) of APSRTC Employees (Conduct) Regulations, 1963.”

Respondent No.2 submitted his explanation to the charge memo. An enquiry is said to have been conducted and the Enquiry Officer submitted his report on 20.08.2005. The copy of the report was supplied to respondent No.2 to file his objections against the same. Respondent No.2 submitted his objections. Without considering the same, a show cause notice for his removal from service was issued on 20.09.2005 and he submitted his explanation to the same. However, an order of removal was passed on 30.09.2005 and the same was confirmed by the appellate and revisional authorities. Respondent No.1 filed I.D.No.83 of 2006 before the Labour Court, Guntur, challenging the order of removal and seeking reinstatement into service with continuity of service, back wages and other attendant benefits.

The Labour Court framed the following points for its consideration:

- (1) Whether, the order of removal of the petitioner from service passed by the first respondent, dated 30.09.2005, is legal and valid?
- (2) If not, to what relief the petitioner is entitled to?

Before the Labour Court, Exs.M1 to M17 were marked on behalf of the petitioners and no documentary evidence was adduced on behalf of respondent No.2. After considering the documentary evidence before it, the Labour Court came to a conclusion that the

two charges levelled against respondent No.2 were not proved. The findings of the Labour with regard to Charge No.1 are as follows:

“It is the defence and submission of the petitioner’s counsel that he issued valid tickets of Rs.30/- and Rs.1/- to all the passengers including the above said two female passengers. But, though the female passengers have produced valid tickets thereafter under a little search, the TTIs have wrongly framed the case which caused irreparable loss to the petitioner. It is his submission that the statement of the passengers were obtained as per the dictation of the TTIs to suit their version. Further, this petitioner do not have any chance to examine the above said passengers at any stage of enquiry since their particulars and addresses were not mentioned. Even on the spot statement given by the passengers (Ex.M-2), the signature of the petitioner was not obtained. Likewise, the signatures of both the TTIs were not found under Ex.M-2 or in support of it. The signatures of any other passengers or the driver of the bus was also not obtained on any of the documents. The names of the other passengers as witnesses were also not noted by the TTIs to show that these two female passengers are travelling without proper tickets.

Coming to the part of the Domestic Enquiry, one of the TTI Sri K.Durga Prasad was examined under Ex.M-12. It is surprised to note that the above statement of the witness was not signed by the Enquiry Officer which contains three pages. In all the three pages, the signatures of both the TTIs were found. I do not understand and it cannot be determined as to whom the statement belongs and by whom it was recorded?. It was further surprising that the statement of the TTI Sri K.Durga Prasad was recorded by the petitioner/conductor for the reason under the statement at

last page, the signature of the workmen is found, but not the Enquiry Officer.

In the counter, it was specified by the respondents, that the Domestic Enquiry was done by the Assistant Manager (T-Enquiries), Regional Manager's Office, Vijayawada who in turn sent a report to the first respondent that the charges against the petitioner are proved under Ex.M-13. This Enquiry Officer in his elaborate five pages report in English with all the particulars and procedure of the enquiry and what steps taken by him from stage to stage and signed and sent to the first respondent. But at the same time, it is not known as to why he has not signed under the statements recorded by him under Ex.M-12 as well as under Ex.M-11. Here itself it can be said that the recording of the statement of witnesses during the domestic enquiry is not proper and without the signature of the Enquiry Officer, it cannot be accepted. For this reason itself, the entire domestic enquiry is not in accordance with law and procedure contemplated.

Coming to the spot explanation given by the petitioner/conductor under Ex.M-3, it shows that he has issued correct and proper tickets to all the passengers. But, they were not considered by the checking officials. Even the statements ought to have noted in the specified column in the charge memo under Ex.M-6. But there is no reason as to why that was separately taken.

For the above reasons, Charge No.1 is not proved."

The Tribunal observed that the charges framed against respondent No.2 were baseless and were not proved and ultimately passed award, dated 03.04.2013, allowing the I.D. filed by respondent No.2 by setting aside the order of removal. Further,

having found that respondent No.2 attained the age of superannuation on 28.02.2008, the Tribunal has not passed any order for his reinstatement into service. However, the Tribunal directed the petitioner-Corporation to pay 50% of back wages to respondent No.2 from the date of removal till the date of superannuation on 28.02.2008 with continuity of service, back wages, and other attendant benefits.

After perusing the findings recorded by the Labour Court on the basis of the evidence adduced before it, this Court is not inclined to interfere with the same.

The writ petition is accordingly dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO,J

Dt:19.09.2016

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