

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.39692 of 2016

ORDER:

Heard the learned counsel for the petitioner.

2. The 2nd respondent was employed as a Conductor in the APSRTC, Hanmakonda Depot. On 18-06-2007, certain irregularities were discovered and disciplinary proceedings were initiated against 2nd respondent on 21-06-2007 and the following two charges were framed:

Charge No.1:- For having failed to close the tray Nos. of Rs.6/- denominations correctly at stage No.19 (Abbaipalem). You have closed 847 instead of 849 in S.R. and in next stage, you have closed the tray Nos. as 850 and show issues as 3 in S.R. issues column. You have closed as 849 of Rs.6/- denomination from stage Nos.22 to 20 and above two tickets were re-issued at stage No.19, and defrauded legitimate revenues of the Corporation, which is mis-conduct in terms of Reg.28 (vi) (a), (xxiii) and (xxxi) of APSRTC Employees (CONDUCT) Reg. 1963.”

Charge No.2:- For having failed to close the tray Nos. of Rs.3/- denomination at stage No.1, but you have closed as 808 in S.R. and closed as 809 in Way Bill, which amounts to mis-conduct in terms of Reg.28 (xxv) and (xxxii) of APSRTC Employees (CONDUCT) Reg. 1963.”

3. The 2nd respondent submitted the explanation thereto on 21-06-2007 denying the charges. Disciplinary enquiry was conducted against 2nd respondent and the report dt.01-09-2007 was submitted finding the 2nd respondent guilty of the charges. Thereafter, the 2nd petitioner imposed punishment on 24-09-2007 on 2nd respondent of deferment of annual increment for a period of two years with cumulative effect and directed that the suspension period will not be treated as ‘on duty’.

4. The 2nd respondent raised an industrial dispute which was referred to 1st respondent for adjudication on 11-11-2011 by the Joint Commissioner of Labour, Warangal. The 1st respondent held that charge No.1 as framed against 2nd respondent was not proved but charge No.2 was proved and reduced the punishment to withholding of only one annual grade increment with cumulative effect.

5. Challenging the same,, this Writ Petition is filed.

6. Learned counsel for the petitioners contended that in view of the modified punishment imposed by 1st respondent, the financial liability of about Rs.1,50,000/- is incurred by the petitioners and therefore, the petitioners are entitled to assail the said order. He further contended that 1st respondent committed error of law in interfering with the finding of the enquiry officer and in modifying the punishment and that 1st respondent did not consider the evidence of 2nd respondent.

7. As regards the first contention, admittedly 1st respondent has got power under Section 11-A of the Industrial Disputes Act, 1947 (for brevity 'the Act, 1947') regarding the quantum of punishment. Therefore, it cannot be said that 1st respondent has no power to modify the order of punishment imposed by 2nd petitioner on 2nd respondent. After appreciating the evidence before him, 1st respondent found that charge No.1 relating to re-issue of two tickets of Rs.6/- denomination was not proved and only charge No.2 which is the charge of not reflecting sale of Rs.3/- denomination in the S.R. is proved. In view of this finding given by the 1st respondent-Tribunal, which is based on appreciation of record, it was a just exercise of power by it under Section 11-A of the Act, 1947 to reduce the

punishment imposed by 2nd petitioner on 2nd respondent on the ground that the punishment imposed by the 2nd petitioner was disproportionate to the proved mis-conduct.

8. I am of the opinion that the finding of 1st respondent-Tribunal, in regard to charge No.1 or the exercise of power under Section 11-A of the Act, 1947 by it, cannot be said to be perverse or contrary to law.

9. Therefore, I do not find any merit in the Writ Petition and the same is accordingly dismissed with costs of Rs.1,000/- (Rupees One Thousand only).

10. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 21-11-2016
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