

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

W.A.No. 815 OF 2017

DATED 01ST AUGUST, 2017

Between:

K.V.S.Sivudu ... Appellant

AND

The Labour Court, Guntur,
Rep. by its Presiding Officer, and another ... Respondents

Counsel for the appellant : Sri V.Narasimha Goud

Counsel for respondent No. 1 : G.P. for Labour (A.P.)

Counsel for respondent No. 2 : Sri S.V.Ramana

THE COURT MADE THE FOLLOWING

JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Appeal arises out of order dated 30-12-2016 in W.P.No. 22818 of 2006, whereby a learned single judge of this Court has dismissed the said Writ Petition filed by the appellant.

2. We have heard Sri V.Narasimha Goud, learned counsel for the appellant, and Sri S.V.Ramana, learned standing counsel for APSRTC.

3. The appellant was appointed as a Conductor in the year 1985. While he was on duty as Conductor on the route Bhimavaram to Narasapuram, the Zonal Enforcement Squad, Vijayawada, caused a check and found certain irregularities, based on which a charge sheet was issued with the following five charges:

- "1. For having failed to observe the rule "Issue and Start" while you were conducting the vehicle No. 9168 on the route BVRM – NSP (M) on 12-08-1999, which constitutes misconduct under Reg. 28 (xxxii) of APSRTC Employees (Conduct) Reg. 1963.
2. For having collected Rs.99/- from a batch of 33 passengers (Labourers) and failed to issue tickets to them, who boarded the bus at Bhimavaram and bound Bethapudi, ex. Stages 01 to 03, even though collected the requisite fare from them at the boarding point itself i.e., Bhimavaram, while you were conducting the vehicle No. AP 9Z 9168 on the route BVRM to Narasapuram (M) on 12-08-1999, which constitutes to misconduct under Regulation 28 (vi) (a) of APSRTC Employees (Conduct) Regulations, 1963.
3. For having closed all the ticket denominations in the S.R. up to stage No. 2, without issuing tickets to a batch of 33 passengers, even though collected the requisite fare, while you were conducting the vehicle No. AP 9Z 9168 on the route BVRM to Narasapuram on 12-08-1999, which constitutes to misconduct under Regulation 28 (xxxiii) of APSRTC Employees (Conduct) Regulations, 1963.

4. *For having found missing the ticket block Nos. 298/514700 of Rs.2/-, 097/310732 of Rs.2.25 ps., 238/003100 of Rs.2.25 ps., 238/003100 of Rs.2.25 ps., 356/280500 of Rs.5/- and 186/275575 of Rs.8/- E.1, which were taken by you as per Way Bill No. 0452/20599105 (Tray No. 205) on 12-08-1999 for NSP (M) service, while you were conducting the vehicle No. AP 9Z 9168 on the route Bhimavaram – Narasapuram (M), by you which amounts to misconduct under Reg. 28 (v) of APSRTC Employees (Conduct) Regulations, 1963.*
5. *For having failed to remit the sale proceeds of tickets bearing No. 356/280500 to 599 E.100 tickets of Rs.5/- deno., amounting to Rs.500/- which were sold by you vide SR bearing No. 3446843 dt. 26-03-1999, which is misappropriation of corporation revenue, it amounts to serious misconduct under Reg. 28 (x) of APSRTC Employees (Conduct) Regulations, 1963."*

The appellant failed to submit his explanation to the charge sheet. The inquiry officer conducted inquiry, during which the appellant admitted that he has failed to issue tickets to 33 passengers of the denomination of Rs.3/-. It has also come out during inquiry that the appellant has not produced ticket blocks of Rs.2/-, Rs.2.25/-, Rs.5/- and Rs.8/- and he has also failed to remit Rs.500/- pertaining to ticket denomination of Rs.5/-. The inquiry officer held all the charges having been proved and as a result thereof, the appellant was removed from service. The appellant straightaway raised an industrial dispute which was registered as I.D.No. 140 of 2000 on the file of the Labour Court, Guntur. By award dated 07-06-2005, the Labour Court has dismissed the I.D. Assailing the order of respondent No. 2 and the award of respondent No. 1, the appellant filed W.P.No. 22818 of 2006. On hearing both sides, the learned single judge dismissed the Writ Petition. Feeling aggrieved by the said dismissal, the Writ Petitioner filed this Writ Appeal.

4. Sri V.Narasimha Goud, learned counsel for the appellant, submitted that Sri E.V.Rao, TI – II has replied to the question posed by the appellant during

inquiry that when the checking officials boarded the bus at Taderu bridge, the appellant was in the middle of the bus, issuing tickets and that after checking the S.R., they have also asked the appellant to stop issuing tickets since stage No. 2 of the S.R. was closed by him for all denominations and that therefore this admission on the part of the witness would clearly show the *bona fides* of the appellant. We are afraid we cannot accept this submission. If we read the answer of the said witness in its entirety, it reveals that the appellant continued to issue tickets after closing the S.R. for stage No. 2 which itself is a misconduct. Admittedly, the appellant has collected fare from 33 passengers and failed to issue tickets. The appellant has not even submitted his explanation before disciplinary authority to the charge sheet, from which it could be presumed that he had no explanation to offer at all.

5. Having regard to the fact that the disciplinary authority, the Labour Court and the learned single judge have rendered concurrent findings against the appellant, we do not find any error apparent on the face of the record warranting interference with these orders in exercise of our letters patent jurisdiction. For these reasons, the Writ Appeal fails and the same is accordingly dismissed.

6. As a sequel to dismissal of the Writ Appeal, W.A.M.P.No. 1593 of 2017 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J.

GUDISEVA SHYAM PRASAD, J.

Date: 01-08-2017.

JSK