

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.3578 OF 2003

ORDER :

The case of the petitioner is that he was recruited as driver on 30.12.1970 by the APSRTC Karimnagar Division and posted to Karimnagar Depot and worked as a driver in various depots. Lastly he was transferred to Metpalli Depot under transfer order dated 29.04.1995 issued by the Regional Manager, APSRTC, Karimnagar. While so, when the petitioner was on duty i.e., the last trip from Mularampoor to Metpalli, while reaching Vemulakurthi at 20.30 hrs on 13.09.1995, the said vehicle failed due to break down of accelerator link. As petitioner could not fix the same, the said vehicle was detained at Vemulakurthy for mechanical defect at 21 hrs on 13.09.1995. Though petitioner tried to report the same to the 2nd respondent through phone, there was no response. Therefore on 14.09.1995 in the early morning, the petitioner sent the service conductor to the 2nd respondent along with written complaint regarding failure of the bus which is at a distance of 15 km. Basing on the said incident, charges were framed against the petitioner without serving the copy of the charge memo, petitioner was suspended from service on 16.09.1995. Against the said order, the petitioner filed W.P.No.28252 of 1995 and the same was disposed of directing the respondents to conduct enquiry in the matter and pass orders. Thereafter, in the month of November, the petitioner was removed from service vide order dated 20.05.1996. Against the same, the petitioner preferred appeal which was dismissed vide order dated 06.10.1997 and review petition filed by

the petitioner was also dismissed vide proceedings dated 19.02.1998 and then the petitioner approached the Labour Court by filing I.D.No.138/1999 and the Labour Court vide order dated 16.05.2001 dismissed the same. Challenging the said order, the present writ petition is filed.

Counter affidavit is filed by the respondents 2 and 3 stating that the bus which the petitioner was driving failed on 13.09.1995 due to breakdown of accelerator link. Sri T.P.Rao, Helper of Metpalli Depot attended the relief to the above vehicle on 14.09.1995 at about 11.40 hrs and at that time, the passengers of the bus represented that the petitioner was in drunken condition. When the same was informed to Chief Inspector and to the Assistant Mechanical Foreman, the Chief Inspector, Metpalli instructed the Helper to bring the vehicle back without allowing the driver to drive the vehicle. Later, the Chief Inspector, Metpalli, when directed the petitioner to undergo alcohol test, he refused to undergo it, which was witnessed by conductor and Helper. It is also stated that petitioner avoided receiving the chagememo, chargesheet and enquiry letters sent to him to the address mentioned in the suspension order and also did not choose to attend the enquiry. Therefore, exparte enquiry was conducted by the Chief Inspector, Korutla and action was taken as per the conduct Regulations. The petitioner was placed under suspension vide order dated 16.09.1995 and when the said order was sent to the petitioner, the same was returned. As such, it was exhibited on the notice board of the respondent and detailed enquiry was ordered. Accordingly, the enquiry officer sent enquiry call letters to

the petitioner on 09.10.1995, 02.11.1995 and 16.11.1995 fixing the dates of enquiry on 31.10.1995, 16.11.1995 and 2.12.1995 respectively and ex parte enquiry was done and the enquiry officer found all the charges leveled against the petitioner proved. It is further stated that the petitioner has not furnished correct/present address for sending enquiry letters by the Enquiry Officer. Address mentioned by the petitioner in the service register as mentioned in the suspension order is Sri B.Gangaram S/o Muthanna, RTC Driver, C/o P.Prabhakar, H.No.2-10-471/C, Jyothinagar, Karimnagar. The petitioner mentioned his permanent address as Village Tallarampur (via) Kammarpalli Mandal, Morthad Tq, Bheemgal, District Nizamabad. It is further stated that the petitioner has already crossed the age of superannuation on 31.12.200 and the Award in I.D.No.138 of 1999 was passed on 16.05.2001 and that the petitioner approached this Court after 2 years. Finally, the respondent sought for dismissal of the writ petition.

Learned counsel for the petitioner submits that the respondent authorities instead of sending notice on the address furnished by the petitioner, have sent the same to the wrong address and later displayed on notice board and thereafter enquiry as well as the removal order is passed which is in violation of principles of nature justice. Neither the charge sheet nor the suspension order and even notice of any enquiry was sent to his permanent address, which is mentioned in transfer order dated 29.04.1995. He also submits that petitioner subsequently made representation giving correct address. He further submits that

petitioner is not responsible for mechanical failure and that he tried his level best for fixing the same. Petitioner was never in drunken condition and basing on the false allegation made by the co-employee, enquiry was initiated.

Sri N.Vasudeva Reddy, learned Standing counsel for the respondents submits that the notices were issued to the address furnished by the petitioner as per the Service register, but petitioner failed to receive the same. Though several opportunities were given to the petitioner, he failed to utilize the same. He also submits that petitioner was in drunken condition and refused to undergo alcohol test. He further submits that order of the disciplinary authority is confirmed in the appeal, review and by the Labour Court, therefore no interference is called for and the findings of the fact cannot be appreciated in the writ jurisdiction.

In this case, it is to be seen that in the counter affidavit it is specifically asserted that notices were sent to the address mentioned by the petitioner which is recorded, in the suspension order and in the service register. Learned counsel for the petitioner stated that petitioner filed writ petition against the order of suspension by taking a copy of the order which was affixed on the Notice board. It is also stated that charge memo was also affixed on notice board and the assertion that the charge memo is served on the petitioner is also not disputed by filing reply affidavit which goes to show that petitioner is aware of the charge sheet as he challenged the suspension order by filing writ petition. The original authority clearly found that notices were sent to the petitioner and same was confirmed in the appeal and review and the Labour

Court also clearly held that it is the duty of the petitioner to give his permanent address to receive communication regarding enquiry. But the petitioner preferred not to give permanent address and not to receive communication with regard to enquiry. It also held that petitioner has to approach the respondents atleast for receiving subsistence allowance and that the petitioner has to blame himself for not receiving the enquiry call letters. After recording the evidence, the Labour Court clearly found that the petitioner intentionally removed the accelerator link and detained the bus causing inconvenience to the passengers and that he was in drunken condition. The original authority and appellate authority followed proper procedure in conducting enquiry and after believing the same, the enquiry officer confirmed the order. The Labour Court also basing on the evidence, came to conclusion that respondents have followed proper procedure.

Though learned counsel for the petitioner pointed out other aspects, this Court cannot reappreciate the evidence and disturb the findings of fact arrived at by the original, appellate, review and Labour Court by exercising power of judicial review under Article 226 of Constitution of India.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

A.RAJASHEKER REDDY, J

21.06.2017
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