

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 4821 of 2009

Order:

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents 1 and 2.

The petitioner was appointed as a Conductor in May 1986 in the respondent-Corporation. While so, on 03.06.2005, a check was conducted while the bus was proceeding from Bheemavaram to Losari. Thirteen (13) passengers boarded the bus at boarding point and travelled for four stages and then check was conducted. It was noticed that they were not given fresh tickets, but they were given only sold tickets after collecting requisite fare of Rs.9/- from each passenger. Accordingly, a charge sheet was issued on 09.06.2005 while keeping the petitioner under suspension. When the explanation of the petitioner was not satisfactory, the following charges were framed against the petitioner and an enquiry was conducted.

"1. For having failed to observe the Rule or "Valid tickets" only should be issued to the passengers after collecting the tickets requisite fare, while you were conducting Bus No.AP 9z 9065 on the route Bhimavaram – Losari on 3-5-2005, which constitutes misconduct under Reg.28(xxxii) of APSRTC Employees (conduct) Regulations 1963."

2. For having collected an amount of Rs.9/- each from 13 passengers at the Boarding the point itself (Rs-117/-) and re-issued the tickets bearing Nos.231/131314, 315, 316, 335, 336, 340, 352, 372, 373, 374, 376, 377 to them who boarded the bus at Bhimavaram bound for Losari, ex-stages 1 to 6, which were already punched (0 & 6) and (0 & 1) and sold in the 08:30/10:50 Hrs. Losari-Bhimavaram trips on the same day and accounted in the S.R.bearing No.023/287614 maintained by you on the route Bhimavaram-Losari on 3-6-2005 and ticket bearing No.240/131309 of Rs.9/- denm., unconcerned ticket which was sold at Palakol, stage No.6 and punched the stages as 06 & 01 at 10:50 Hrs. Palakol-Bhimavaram service on the same day, i.e., 3-6-2005 vide S.R.bearing No.023/287627 while you were conducting the Bus.No.28(xxiii)(x) to APSRTC Employees (conduct) Reg.1963."

3. For having failed to close the ticket key Nos. of all denominations on the S.R.No.023/287614 maintained by you, without

issuing correct valid tickets, even though collected the exact fare at the boarding point itself while you were conducting the Bus.No.AP 9z 9065 of Bhimavaram Depot on the route Bhimavaram-Losari on 3-6-2005 which constitutes misconduct under Reg.No.28(xxxii) of APSRTC Employees (conduct) Reg.1963.

4. For having failed to give spot explanation duly obstructing the TTIs. While taking the ticket handle for TPT and given the Ticket handle to the TTIs. Duly keeping with and torn the service statistical Return no.287614, which is on authentic record on this case to conceal the facts MTD-43/R and charge Memo by using unparliamentary language against the officials in rude behaviour and insulted them amount the public while you were conducting the Bus No.AP 9z 9065 of Bhimavaram Depot on the route Bhimavaram-Losari on 3-6-2005 which constitutes misconduct under Reg.No.28(viii)(xxx) of APSRTC Employees (conduct) Reg.1963.”

5. For having refused to sign in the MTD 43/R by you which was prepared by the TTIs for which they have obtained signature of the service driver on the said charge Memo when a check was exercised on the by them and found certain cash and ticket irregularities while you were conducting the Bus No.AP 9z 9065 at Bhimavaram Depot on the route Bhimavaram-Losari on 3-6-2005 which constitutes misconduct under Reg.No.28(xxxii) of APSRTC Employees (conduct) Reg.1963.”

In the domestic enquiry, the charges were held proved. The petitioner was given due opportunity during the domestic enquiry. Pursuant to the report submitted by the Enquiry Officer, a show cause notice of removal was issued to the petitioner on 05.10.2005. The petitioner submitted his explanation and after considering the same, an order of removal was passed on 13.10.2005. The appeal and review petitions preferred by the petitioner to the Divisional Manager, Tanuku and the Regional Manager, Eluru were rejected. Thereafter, he raised I.D.No.73 of 2006 for setting aside the order of removal dated 13.10.2005. A preliminary enquiry was conducted by the Labour Court and, by its order dated 01.03.2008, held that the domestic enquiry was valid and binding on both the parties. However, it framed the following points for consideration.

- “1) Whether first respondent is not competent to remove the petitioner from service?
- 2) Whether the charges are proved or not?
- 3) Whether the punishment of removal is proportionate or disproportionate?

4) To what relief?"

Before the Labour Court, no oral evidence was adduced and the petitioner did not mark any documents. The respondents filed Exs.M1 to M23. The Labour Court carefully perused the report of the Enquiry Officer in the light of the documents filed before it and dismissed the petition with the following observations.

"The petitioner did not put any evidence to show that the TTIs have acted highhandedly against him. He was questioned that he did not tear the SR and 43/R, for which the TTI replied that the petitioner toned the SR and 43/R. The petitioner did not put evidence on this aspect also. Thus, the circumstances, stated by the TTI clearly go to show that 13 passengers were travelling with reissued tickets in the bus during the service travelling with reissued tickets in the bus during the service of the petitioner. If the check had been at the boarding point, it would have been thought that the petitioner had not completed the issue of tickets or he did not count the number of passengers. The petitioner is not denying the boarding of 13 passengers at the boarding point. The petitioner is also not denying the check at Gollavanithippa which is 4th stage, after the boarding point. Even if the explanation of the petitioner that when he asked the passengers, they have submitted that they have received tickets is true there is an obligation on the part of the conductor to verify the number of tickets sold and count the passengers to know whether all the passengers have received tickets or not. The circumstances show that there are 13 passengers boarded the bus at boarding point and travelled for 4 stages and then the check was conducted. Thus, his explanation that he passengers have represented to him that they have received tickets does not sustain in the above circumstances. The TTI also has specifically stated about the misbehaviour of the petitioner against him and another TTI at the time of checking. He also stated about the applicant tearing the record.

Thus, the circumstances deposed by the TTIs, the facts in Ex.M2 passenger's statement, Ex.M1 SRs, other exhibits discussed above clearly go to show that the petitioner issued already sold tickets to 13 passengers after collecting requisite fare at Rs.9/- from each of them and thereby failed to issue valid tickets. The above documentary material and oral evidence of the TTI also go to show that the petitioner has misbehaved with the TTIs in the public and also toned the documents.

It is submitted for petitioner on charge No.4 that failure to give spot statement does not amount to any misconduct. But, charge No.4 not only contained that act. It also contains the acts of misbehaviour with the TTIs in the public, and tearing

of SR etc. Thus, the above submission for the petitioner does not sustain.

Thus, the above material discussed clearly shows that the petitioner has not issued valid tickets even after collecting requisite fare, failed to close ticket numbers of all denominations and obstructed the TTIs, had toned the SR and also failed to sign the requisite documents in spite of demand by the TTIs as per Rules. Thus, the petitioner/delinquent misconduct himself for the above charges.

For the above reasons, it is held that the charges are proved.”

Though the petitioner pleaded for lesser punishment, the Labour Court did not agree and the learned counsel for the petitioner in the present Writ Petition also submits that the removal of the petitioner from service is disproportionate to the charges levelled against the petitioner. But, in the domestic enquiry as well as by the Labour Court the charges against the petitioner were proved and the charges relate to cash and ticket irregularities. In view of the same, this Court cannot interfere with the award passed by the Labour Court.

The Writ Petition is, accordingly, dismissed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 05.07.2017
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