

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.4147 of 2006

ORDER:

This writ petition, under Article 226 of the Constitution of India, by the petitioner is directed against the Award, dated 09.11.2004, of the learned Presiding Officer, Labour Court, Guntur, passed in I.D.No.142 of 2000.

2. I have heard the submissions of *Sri P.Govindarajulu*, learned counsel for the petitioner and of *Sri P.Durga Prasad*, learned Standing Counsel appearing for the respondents-APSRTC (hereinafter, 'Corporation'). I have perused the material record.

3. The facts, in a nutshell, are as follows:

The petitioner was appointed as a casual Conductor on daily wage basis with effect from 16.05.1989 and his services were regularized with effect from 01.04.1990. On 06.09.1998, while the petitioner was conducting the Corporation bus service no.437 plying on the route 'Atmakur to Gudipadu', the checking officials of Regional Enforcement Squad, Nellore, exercised a check at Stage No.5/6 at about 09.35 hours and found that the petitioner collected an amount of Rs.3/- each from six individual passengers, who boarded the bus at A.S.Peta and bound for Gudipadu, ex. Stages 4 to 6, and issued the tickets which were already issued by the petitioner, on 05.9.1998, at 16.00 hours 'Atmakur to Gudipadu' service at stage No.4 and 6, and, accounted in the S.R. Further, the petitioner has not closed the SR against Stage No.5 without completing the issuing of tickets. The Management of the Corporation placed the petitioner under suspension, on 14.9.1998. And, on the grounds of cash and ticket irregularities, a charge sheet was issued to the petitioner with the following charges:

- (1) For having violated the rule 'Issue & Start', which constitutes misconduct under Reg. No.28 (vi.a) of APSRTC Employees' (Conduct) Regulations, 1963.
- (2) For having collected an amount of Rs.3/- from each, from six individual passengers who boarded the bus at A.S.Peta and bound for Gudipadu, ex-stages 4 to 6 and issued tickets bearing No.335/166927 of Rs.3/- E.1, 335/166928 of Rs.3/- E.1, 335/166978 of Rs.3/- E.1, 335/166987 of Rs.3/-, E.1, 335/166979 of Rs.3/- E.1, 335/166982 of Rs.3/- E.1 (E.6 tickets) which were already issued to the passengers on 05-09-'98 in 16.00 hrs. Atmakur to Gudipadu service at stage No.4 A.S.Peta (Tickets – 335/166927 of Rs.3/- E.1, 335/166928 of Rs.3/- E.1) and in 07.40 hrs. Gudipadu to Atmakur service on 06.09.'98 at stage No.6 Gudipadu (Tickets-335/166978 of Rs.3/- E.1, 335/166979 of Rs.3/- E.1, 335/166978 of Rs.3/-, E.1, 335/166979 of Rs.3/- E.1, 335/166982 of Rs.3/- E.1, 335/166987 of Rs.3/- E.1), thus, you have reissued the above tickets, which constitutes misconduct under Reg. No.28(x) of APSRTC Employees' (Conduct) Regulations, 1963.”

(Reproduced Verbatim)

After the explanation to the charges was found not satisfactory, a domestic enquiry was duly ordered and conducted and the enquiry officer furnished a report holding that the charges are proved. As the objections and comments to the show-cause notice were found not satisfactory and convincing, an order of removal from service was passed, on 07.01.1999. On 11.02.1999, the petitioner submitted an appeal to the Deputy Chief Traffic Manager, Nellore, against the proceedings of the Depot Manager; and, the same was rejected by the said appellate authority by an order, dated 07.08.1999. Subsequently, on

07.09.1999, the petitioner submitted review petition to the Regional Manager, Nellore. The same was also rejected by an order dated 17.06.2000. Eventually, the aggrieved workman raised an industrial dispute invoking Section 2-A (2) of the Industrial Disputes Act, 1947, (hereinafter, the Act') and filed a claim petition in I.D.No.142 of 2000. The Corporation resisted the claim petition *inter alia* contending that the petitioner involved many times in cash & ticketing irregularities and absenteeism during the tenure of his service and that he was awarded several punishments. However, the Labour Court, by the Award, dated 09.11.2004, partly allowed the claim of the petitioner and while setting aside the order of removal from service directed his reinstatement into service without back wages and without continuity of service and further held that the petitioner is not entitled to any monetary benefits from the date of removal till the date of passing of the Award by the Labour Court.

4. Aggrieved thereof, the workman preferred this writ petition.

5. The learned counsel for the petitioner urged that from a perusal of the award, which is cryptic and which does not deal, in detail, with the charges, the explanation to the charges and the evidence, it is clear that the learned Presiding Officer of the Labour Court, simply recorded a finding, bereft of reasons, that the charges are proved. The said approach of the said Officer of the Labour Court is contrary to law and procedure and is therefore, unsustainable. He submits that the Labour Court is like a Court of first appeal and that it is the last Court of fact and, therefore, a duty is enjoined upon the Labour Court to first examine as to whether the domestic enquiry was validly conducted or not and that the Labour Court is under an obligation to give an opportunity to the management, to prove the charges in the industrial dispute itself even if it finds that the termination of the service of a workman was not preceded by a proper and legal domestic enquiry, but, in the instant case, the Labour Court failed to first examine the legality & validity or otherwise of the

domestic enquiry and that the Labour Court failed to advert to and appreciate the evidence and jumped to a conclusion that the charges are proved. He therefore, prayed for setting aside the award and remanding the matter to the Labour Court with appropriate directions. The learned standing Counsel for the Corporation submitted that when the Labour Court held that the charges are proved, it ought not to have interfered with the measure of penalty, more particularly, without assigning any valid reasons. He pointed out that the dispute is of the year, 2000.

6. As rightly contended, the Labour Court must first find out whether or not the termination of the service of a workman was not preceded by a proper and legal domestic enquiry; and, the Labour Court is under an obligation to give an opportunity to the management, to prove the charges in the industrial dispute itself, if necessary. This mandatory step was not followed by the Labour Court. Therefore, there is a clear and patent illegality in the procedure adopted by the Labour Court. Further, the award bereft of reasoned findings does not stand the test of scrutiny is not disputed before this Court.

7. Having given detailed and thoughtful consideration to the above submissions and keeping in view the further submission that in the light of the legally not acceptable approach adopted by the presiding officer of the Labour Court great prejudice has been caused to the workman, and on the above analysis, this Court finds that the award impugned is liable to be set aside and the matter requires to be remitted to the Labour Court for hearing and disposal afresh, in accord with procedure established by law. Though the dispute is an old dispute, there is a likelihood of the disposal of the dispute within a time frame, on remand; hence, the above view is taken keeping in view the interests of the workman and also to meet the ends of justice.

8. In the result, the Writ Petition is allowed and the award, dated 09.11.2004, of the Labour Court, Guntur, in I.D.No.142 of 2000, is hereby set

aside and the matter is remitted to the Labour Court with a direction to dispose of the said ID afresh on merits and in strict accordance with procedure established by law, as expeditiously as possible and preferably within one month from 06.04.2017. To avoid delay in services of notice by the Labour Court, both the parties are directed to appear before the Labour Court, Guntur, on 06.04.2017, at 10.30 am either in person or through an advocate without fail and extend co-operation for the expeditious disposal of the matter.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

22nd March, 2017

Note:- (1) Issue CC by 24.03.2017

- (2) The registry is directed to arrange to transmit and deliver the entire record, along with a copy of this order, to the Labour Court, Guntur, before 30.03.2017, 5.00 pm through a special messenger, if necessary.

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