

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.2224 OF 2009

ORDER:

Heard learned counsel for the petitioner and none appeared for the first respondent.

The first respondent was engaged as a contract conductor on daily wage basis with effect from 22.03.1984 and his services were regularized with effect from 22.03.1985. While he was conducting a Bus AP 9Z 8048 on route 250 on 08.11.2004 at about 21.35 hours at stage No.4/5 Nacharam X roads, the checking officials of Regional Enforcement Squad, Hyderabad City Region, exercised a check and detected that a batch of four passengers were found alighting at Nacharam X roads ex-stage 4/5 without tickets from whom the first respondent collected an amount of Rs.8/- at the boarding point i.e., Nacharam village. The statements of the passengers were recorded and they were attested by the first respondent. Thereafter, a charge Memo was prepared on the spot and served on the first respondent and the same was acknowledged by the first respondent. He submitted his spot explanation on the basis of the charge memo. He was placed under suspension and charge sheet was issued to the first respondent with the following charge.

“For having already collected sum of Rs.8/- from a batch of (4) four passengers who have boarded the bus at Nacharam Village and found alighting without ticket at Nacharam X Road which constitutes misconduct under Reg.28(vi)(a) of APSRTC Employees (Conduct) Reg.1963.”

After receiving the charge sheet, the first respondent submitted his explanation and as it was found unsatisfactory, a regular departmental enquiry was ordered. The enquiry officer submitted his report holding that the charge levelled against the first respondent was proved. A show cause notice was issued to the first respondent through letter, dated 28.04.2005 and the first respondent submitted his objection. An order of removal was passed after issuing the show cause notice by order, dated 03.06.2005. An appeal to the

Divisional Manager was dismissed on 27.10.2005. Thereafter, the first respondent raised a dispute before the Labour Court in I.D.No.3 of 2006. Before the Labour Court, no oral evidence was adduced, but the petitioner herein produced Exs.M.1 to M.21. The Labour Court, by its Award, dated 13.07.2007 set aside the order of removal of services of the first respondent herein and directed reinstatement of the first respondent into service with continuity of service, with all other attendant benefits without backwages. Challenging the same, the present writ petition was filed.

This Court, by order, dated 10.02.2009, granted interim stay of execution of the Award only in respect of attendant benefits and continuity of service.

It is stated that the first respondent herein was reinstated into service on 15.10.2007. Looking at the age of the first respondent, he must have been retired from service also. The Labour Court, after considering the documentary evidence, observed as follows.

As seen from the material, a statement of the passenger by some other co-passenger on the ground that the ticketless passengers are illiterates but it shows that the statement of the co-passenger was recorded with two pens. It appears the passenger signature was with a different ink which creates a doubt about true state of affairs. It is admitted by the witness that they found three passengers from front door and one passenger belonging to the same alighting from rear door which strengthen the case of the petitioner. The TTI version is that he asked the three passengers about tickets who informed that the tickets were with the other passenger alighting from rear door. But their statements were not recorded except obtaining the signature of the passenger alighting from rear door. Their version is that they have paid ticket fare but the conductor has not issued the tickets. But the passengers have not given explanation why they have not demanded for tickets. Apart from that it shows that it is half fare one stage and not reached the alighting point but meanwhile alighted at request stage. There are two possibilities as the conductor might have not issued because of half fare stage and during that time they have alighted or they failed to obtain tickets taking advantage of the situation of one passenger boarded from rear side and other passengers boarded from front side. It is very clear that the petitioner has collected a sum of Rs.8/- from them and there is every possibility that they are alighting at 4/5 stage i.e., at request stop. The checking officials should have taken into consideration of the same. It is very clear that he

issued tickets who have boarded from rear side. Nothing on record to show that there is no loss or misappropriation on the part of the respondent. Keeping in view of the half fare one stage and alighting some of the members without tickets may cause a mistake of fact and there is scope to form a mistake by the checking officials. The actual stage is not reached to close the S.R. and in fact it is admitted that the petitioner has issued tickets and there is no loss to the corporation. If really the passengers boarded at long distance and traveled number of stages, there is scope to suspect the conduct of the petitioner to make an allegation as framed herein. Keeping in view of the circumstances, there is no misappropriation of amount. Therefore, he is entitled for reinstatement as the gravity of the punishment is more on higher side under the circumstances of the case.

Thus, the Labour Court came to the conclusion that the actual stage was not reached to close the S.R., and in fact, it was admitted that the first respondent issued tickets and caused no loss to the Corporation. Since there was no misappropriation of the amount, the punishment was found to be disproportionate. In the Circumstances of the case, this Court finds that the Award passed by the Labour Court does not warrant any interference, more so, keeping in view the retirement of the first respondent.

The writ petition is accordingly dismissed. Consequently, miscellaneous petitions pending, if any, shall also stand closed.

A.RAMALINGESWARA RAO, J

12.07.2017
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