

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.1208 of 2012

ORDER:

This Writ Petition is filed by the Andhra Pradesh State Road Transport Corporation challenging the award dt.14-12-2010 in I.D.No.209 of 2007 of the Industrial Tribunal-cum-Labour Court, Anantapur (for short “the Tribunal”).

2. The 1st respondent was employed as Conductor in petitioner's Corporation since 2001 in the place of her husband, who died while working as Conductor.

3. A charge memo was issued to the 1st respondent alleging the following charges in respect of an incident which occurred on 28-09-2006 when she was a conductor of a bus traveling from Chittoor to Piler:

“(1) For having violated the rule Issue and start while you were conducting the service on the route Chittoor to Piler on 28-9-2006 which constitutes misconduct under Red.28(xxxi) of APSRTC Employees (Conduct) Regulations, 1963.

(2) For having collected the requisite fare of Rs.6/- from a passenger who boarded the bus at Chittoor and found alighting at Puthalapattu ex.stages 18 to 17, but failed to issue ticket at the boarding point, on seeing the TTIs, you have issued a ticket No.910/217062 E.1 of Rs.6/- punching on 3rd stage up journey; instead of punching on the stages 18 and 17, which constitutes

misconduct under Red.28(xxxi) of APSRTC Employees (Conduct) Regulations, 1963.

(3) For your failure to account the above said ticket in S.R. and closed the S.R. of all denominations up to stage No.17, which constitutes misconduct under Red.28(xxxii) of APSRTC Employees (Conduct) Regulations, 1963.”

4. The 1st respondent gave explanation denying the charges stating that at Bandapalle, she closed the S.R. and thereafter the passenger in question boarded the bus after passing 1 K.M. from Bandapalle, and when she was in the process of issuing ticket to the said passenger, the checking officials entered the bus. She stated that in order to enable the checking officials to enter the bus, she went ahead to open the door and wrongly punched the ticket and she had no *mala fide* intention to do so.

5. Disciplinary enquiry was conducted against the 1st respondent and punishment of removal from service was imposed on her.

6. She then filed an application under Section 2-A(2) of the Industrial Disputes Act, 1947 assailing the order of removal dt.22-02-2007 passed against her by the petitioner.

7. By award dt.14-12-2010, the Tribunal set aside the order of removal imposed on 1st respondent and directed her reinstatement with continuity of service and attendant benefits but without back wages.

8. Assailing the same, the present Writ Petition is filed.
9. On 27-01-2012, this Writ Petition was admitted and the petitioner was directed to reinstate the 1st respondent into service, but the other reliefs granted by the Tribunal were stayed.
10. The 1st respondent filed W.V.M.P.No.2349 of 2014 to vacate the said order, but the same was dismissed on 19-12-2014.
11. Heard the learned Standing Counsel for petitioner and Sri S.M. Subhan, learned counsel appearing for 1st respondent.
12. Learned counsel for petitioner contended that the award passed by the Tribunal is perverse and contrary to law; that 1st respondent was found guilty of misconduct by the enquiry officer; and that the findings of the enquiry officer could not have been interfered with by the Tribunal in the facts and circumstances of the case.
13. Learned counsel for 1st respondent supported the award passed by the Tribunal.
14. A perusal of the award passed by the Tribunal indicates that the Tribunal relied on the statement of the passenger, who was examined during the domestic enquiry, wherein the said witness stated that he boarded the bus at Bandapalle; that he had altercation with the

1st respondent with regard to fare collected by 1st respondent and that he was contending that only Rs.3/- is to be paid by him to go to Puthalapattu destination. He stated that 1st respondent convinced him that the bus stops in limited stages, then he paid the ticket fare to the 1st respondent and in that situation the check took place and ticket was issued to him by the 1st respondent. He also stated that the checking officials obtained his statement as per their dictation. On the basis of this evidence, the Tribunal held that 1st respondent issued the correct ticket to the passenger but she punched the ticket wrongly in confusion while the ticket officials were at the door as the door was locked. It also held that there is no mistake on her part and the punishment of removal from service is not warranted.

15. The principal charge framed against 1st respondent was that the passenger in question boarded the bus at Chittoor and was found alighting at Puthalapattu. This allegation itself is not proved because the passenger stated that he boarded the bus 1 K.M. after Bandapalle and not at Chittoor. Since the very foundation of the charge against 1st respondent that the passenger boarded at Chittoor is found to be false and not proved, the entire charge falls to the ground. I therefore see no reason to interfere with the finding on fact arrived at by the Tribunal or its direction to modify the punishment of removal from service imposed on 1st respondent.

16. Accordingly, the Writ Petition is dismissed. No costs.

17. It is stated that the 1st respondent has since retired from service on 30-06-2014. Therefore, if any benefits due to the 1st respondent have not been paid on account of pendency of Writ Petition, the same shall be released to the 1st respondent by petitioner within two (02) months from the date of receipt of a copy of this order.

18. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 15-06-2017
Vsv

