

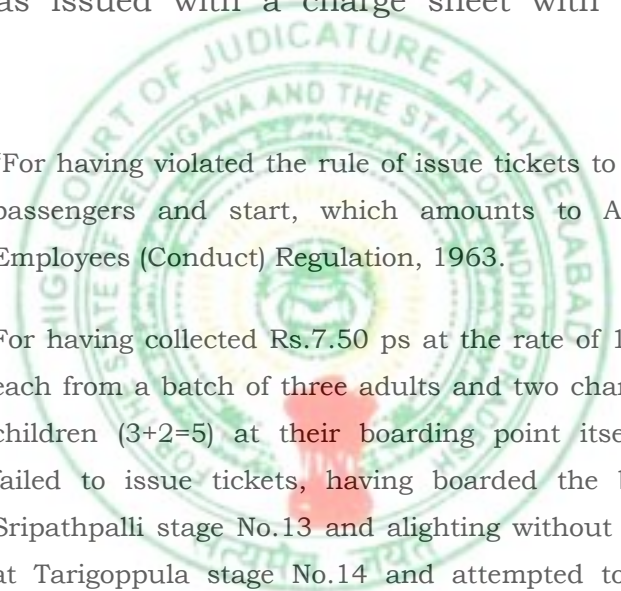
HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.33596 OF 1998

ORDER:

The writ petition is filed questioning the award dated 20.02.1996, passed by the Industrial Tribunal-cum-Labour Court, Warangal (for short, "the Tribunal") in I.D.No.21 of 1993.

The facts are not in dispute. Petitioner while working as a Conductor on 12.04.1992 on a route from Tarigoppula between the stages 13 and 14, a check was conducted. On finding of certain discrepancies with respect to carrying out the dues, petitioner was issued with a charge sheet with the following charges:

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- i) "For having violated the rule of issue tickets to all the passengers and start, which amounts to APSRTC Employees (Conduct) Regulation, 1963.
 - ii) For having collected Rs.7.50 ps at the rate of 1.50 ps each from a batch of three adults and two chargeable children (3+2=5) at their boarding point itself and failed to issue tickets, having boarded the bus at Sripathpalli stage No.13 and alighting without tickets at Tarigoppula stage No.14 and attempted to issue tickets misconduct in terms of Regulation 28(vi)(a) of APSRTC Employees (Conduct) Regulation, 1963.
 - iii) For having closed the tray numbers of all denominations except Rs.1.50 ps denomination against stage No.14 which amounts to misconduct in terms of Reg.28 of APSRTC Employees (Conduct) Regulation, 1963."

In the departmental enquiry, the charges levelled against the petitioner were held to be proved by the enquiry officer and thereafter basing on the report of the enquiry officer, the disciplinary authority had removed the petitioner from services in terms of the A.P.S.R.T.C Employees (Conduct) Regulation, 1963,

(for short, “the Regulation”). Questioning the dismissal of services, petitioner filed an appeal before the respondent authority and the same came to be ended in dismissal. Challenging the said dismissal, the petitioner filed I.D.No.21 of 1993 before the 1st respondent Tribunal. Before the Tribunal no oral and documentary evidence was adduced and in the circumstances, the Tribunal found that the enquiry conducted was in order and there is no infirmity with regard to the departmental proceedings. Having found the same, the Tribunal while concurring with the findings recorded by the enquiry officer had felt that the punishment imposed on the petitioner was severe and in exercise of the powers conferred under Section 11A of the Industrial Disputes Act, 1947 (for short, “the Act”), directed the reinstatement of the petitioner with back wages and without continuity of services.

It is the contention of the learned counsel for the petitioner that the distance between the stages 13 and 14 was only 1 kilometre and stage 14 being the last stage, the petitioner had closed the S.Rs and that cannot be found fault. Further the amount involved with respect to the allegation made is only Rs.7.50 ps and there was no *mala fide* intention on the part of the petitioner and the same is the finding of the Tribunal. Further, the explanation submitted by the petitioner was not considered by the 2nd respondent authorities in a proper perspective and the 2nd respondent authorities have failed to exercise their discretion and failed to appreciate the explanation submitted by the petitioner in a proper perspective. The learned counsel for the petitioner vehemently prayed this Court to restore the benefits of back wages or at least to the extent of continuity

of service as the Tribunal itself had come to a conclusion that the punishment imposed is severe and not commensurate with the charges found to be proved.

On the other hand, learned standing counsel for the 2nd respondent corporation relying on the judgments of the Supreme Court reported in **Managing Director, North-East Karnataka Road Transport Corporation vs. K. Murti**¹ and **Union of India and others vs. P. Gunasekaran**² would submit that the interference of the High Court with respect to the findings recorded by the Tribunal is frowned upon by the Apex Court and in the case on hand, the circumstances as enumerated by the Supreme Court in paras 12 and 13 of its judgment reported in **Union of India** (2 supra) are not present. He would also further submit that the Apex Court had categorically held as far back as in 2006 in the cases of misappropriation of monies even of a small amount the removal from the service is the proper punishment. In the present case on hand, the 2nd respondent Corporation itself ought to have challenged the award. However, taking a lenient view, the Corporation reinstated the petitioner into service. In those circumstances, the learned standing counsel for the Corporation prayed for dismissal of the writ petition.

Having heard the respective submissions and having gone through the material on record, it may be noted that in the departmental proceedings, the charges levelled against the petitioner stands proved. Except contending that the petitioner was not given proper opportunity of hearing and the explanation

¹ (2006) 12 Supreme Court Cases 570

² (2015) 2 Supreme court Cases 610

submitted by the petitioner was not considered in proper perspective, there is no material as such was brought before the Tribunal requiring the interference of the Tribunal with respect to the departmental proceedings. As stated earlier, the Tribunal had held that the enquiry conducted was in order. When there is no infirmity with respect to the enquiry, the scope of interference by the Tribunal with regard to the departmental enquiry also got restricted. In cases where there is a challenge with respect to the enquiry proceedings, it was for the petitioner to have brought before the Tribunal the proper material justifying the interference by the Tribunal. Unfortunately, there is no such circumstances present in the case on hand. It was also urged before the Tribunal that on earlier two occasions, petitioner was suspended for irregularities. The Tribunal even after noticing the same had taken a lenient view in exercise of its powers under Section 11A of the Act and directed reinstatement of the petitioner.

In the light of the law laid down by the Supreme Court in the judgments referred to by the learned standing counsel for the 2nd respondent corporation and in the facts of the present case, the circumstances calling for interference not being present, the award of the Tribunal does not call for any interference.

Accordingly, the writ petition is dismissed. No order as to costs. Miscellaneous Petitions, if any, in this writ petition shall stand closed.

CHALLA KODANDA RAM,J

Date:19.06.2017,
Gk.

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM



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