

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.9702 OF 2008

ORDER:

The petitioner was appointed as a Conductor in the respondent Corporation in the year 1983. Initially, he was appointed in Kamareddy Bus Depot and when he was performing his duties on the route Sirikonda to Nizamabad on 14.04.2003, a check was exercised by the Chicking Officials at stage No.5/6 (Kondur X Roads). On the basis of the irregularities noticed during the check, a charge memo was issued with the following charges.

1. "For having failed to observe the rule issue and start while you were performing the duty on 14.04.2003 on route Sirikonda-Nizamabad, which constitutes misconduct under Reg.No.28(vi)(a) of APSRTC Employees (Conduct) Reg.1963."

2. "For having collected Rs.6/- from two chargeable children aged 12 years & 10 years and failed to issue tickets to them who boarded the bus at Kondur and alighting at Kondur X Road, Girini ex-stages 5 to 5/6 without tickets, hence the TTIs obtained T.P.T.Nos.779/310454&455 E=2 of Rs.3/- demn while you were performing the duty on 14.04.2003 on route Sirikonda-Nizamabad, which constitutes misconduct under Reg.No.28(vi)(a) of APSRTC Employees (Conduct) Reg.1963."

The petitioner submitted his explanation denying the charges on 07.05.2003. An enquiry was conducted and the Enquiry Officer submitted his report on 16.07.2003. On the basis of the enquiry report, the second respondent issued a show cause notice dated 07.08.2003 and terminated the petitioner from service by proceedings dated 25.08.2003. The appeal preferred by the petitioner was rejected on 24.11.2003. The review of the petitioner was also rejected by the Regional Manager, Nizamabad, on 27.05.2004. Ultimately, he filed I.D.No.39 of 2005 before the Labour Court, Hyderabad, and the Labour Court, Hyderabad dismissed the I.D., by order dated 25.06.2007. Challenging the same, the present writ petition is filed.

This Court carefully perused the Award of the Labour Court and it disclosed that the Labour Court merely narrated the events exhibit-wise and did not record any finding. In one sentence, it is stated that there is no reason to interfere with the decision of the respondent. The observations of the Labour Court are as follows.

“Heard both sides.

It is an admitted fact that the petitioner was appointed as conductor in the respondent corporation on 01.03.1983. While the petitioner was conducting the bus on 14.04.2003 on route Sirikonda-Nizamabad the checking officials had checked the bus and found that the petitioner failed to issue tickets to two passengers. The S.P., and Ticket Accountal record is Ex.M.1. Passengers' statement together with the spot explanation of the petitioner is marked as Ex.M.2. In the passengers statement, they stated that while boarding the bus, they had given Rs.6/- to the petitioner. In the spot explanation, he admitted that he had collected Rs.6/- and did not give the tickets to them. Check sheet is marked as Ex.M.3. Charge memo is issued to the petitioner, i.e., Ex.M.4. The cover containing TPT tickets is Ex.M.5. The petitioner had given his explanation to the charge memo i.e., Ex.M.6. In his explanation to the charge memo, it is stated that the students had changed their version, first they told that they are having bus passes, after seeking the TTIs they changed their version. The spot statement and the statement of the two passengers were forcibly recorded by the TTIs. The petitioner had changed his version from his spot explanation to his explanation to the charge memo. In the spot explanation, he stated that he had taken Rs.6/- and failed to give the tickets. In his explanation to the charge memo, he stated that the TTIs had recorded their statements forcibly. The respondent issued suspension order i.e., Ex.M.7. Charges were framed against the petitioner, charge sheet is marked as Ex.M.8. The petitioner had given his explanation to the charge sheet. The explanation is marked as Ex.M.9. He reiterated the same fact that his statement was recorded forcibly. The statement of the Moinuddin, TTI is marked as Ex.M.10. The petitioner had given his statement during the enquiry i.e., Ex.M.11. In that also, the petitioner stated that the statement was obtained forcibly by the checking officials. Findings of the enquiry officer is marked as Ex.M.12. In the enquiry findings report, the enquiry officer pointed out that after collecting Rs.6/- the conductor failed to issue the tickets. The enquiry officer found that the petitioner guilty for the charges framed against him. A

letter was sent to the petitioner for his comments i.e., Ex.M.13. The petitioner had given reply i.e., Ex.M.14. In that, he stated that two minor children were not called for the enquiry and their statements were not believable. After recording the passengers' statement, the inspectors had also recorded the statement of the petitioner and in that he admitted that he had collected Rs.6/- and he did not issue tickets. The statement of the passenger is corroborated by the statement of the petitioner himself. Show cause notice was issued to the petitioner i.e., Ex.M.15. He had given explanation to the show cause notice i.e., Ex.M.16. He reiterated the same facts what he had stated in the explanation to the charge sheet. Proceedings of the Depot Manager, is marked as Ex.M.17 = Ex.W.1. Aggrieved by the order of the Depot Manager, the petitioner preferred appeal to the Divisional Manager, is marked as Ex.M.18. He also preferred revision, that proceedings are marked as Ex.M.19. Xerox copies of the service record is marked as Ex.M.20. After perusal of the service record, it is clear that the petitioner was removed from service previously three times prior to this case. There is no change in his behaviour. There appears to be no reason to interfere with the decision of the respondent. Hence, the petition is dismissed."

This is not what is expected from the Labour Court. In view of the same, this Court is constrained to set aside the Award dated 25.06.2007 and remands the matter to the first respondent for consideration of the I.D.No.39 of 2005 afresh on the basis of the documents already available on record and pass a fresh Award in accordance with law within a period of six months from the date of receipt of a copy of this order.

The writ petition is accordingly allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

28.11.2017
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