

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.19506 of 2005

ORDER:

Heard.

The present Writ Petition came to be filed aggrieved by the order passed by the labour Court in I.D.No.203 of 2000 dated 31.03.2005 on the file of the labour Court, Guntur, wherein the order of removal of the first respondent was set aside.

The averments in the affidavit disclose that the first respondent was appointed as Conductor in APSRTC. While he was conducting the bus bearing No.AP9Z 5185, enroute from Tirupathi-Nellore, a surprise check was exercised by the officials and found serious cash and ticket irregularities. Basing on the report of TTI, the first respondent was issued with a charge sheet dated 26.03.1998, duly keeping him under suspension and asking for his explanation, for the following charges:

“For having failed to issue tickets to a batch of 5 passengers who boarded your bus at Tirupathi and bound for Srikalahasti ex-stages 10 to 9 even after collecting the requisite fare of Rs.60/- from them at the boarding point itself, which constitute misconduct under Reg.28 (vi.a) of APSRTC Employees' (Conduct) Regulations, 1963.

For having closed the ticket tray numbers of all denominations upto stage No.9, without completing the above ticket issues, which constitutes misconduct under Reg.28(xxv) of APSRTC Employees' (Conduct) Regulations, 1963.

For having violated the Rule 'Issue and Start' which constitutes misconduct under Regulations No.28 (xxxii) of APSRTC Employees' (Conduct) Regulations, 1963.”

Thereafter, the first respondent submitted his explanation. Being not satisfied with the explanation, domestic enquiry was ordered and the enquiry officer conducted an enquiry duly following the procedure contemplated under APSRTC Employees' (CC&A) Regulations, adhering to the principles of natural justice and submitted a report holding that the charges leveled against the first respondent was proved. After careful examination of the matter together with eye witness report, the disciplinary authority held that the workman was liable for charges. However, a show cause notice dated 13.08.1998, came to be issued asking the first respondent to give explanation and accordingly he submitted his explanation. Subsequently, a final proceeding dated 19.08.1998, removing the first respondent from the service, came to be issued. Aggrieved thereby, the first respondent filed an appeal and review, which was rejected on 15.01.2000 and 18.03.2000 respectively. Thereafter, the first respondent raised a dispute before the labour Court, Guntur, vide I.D.No.203 of 2000. The petitioner-corporation filed a detailed written statement denying the contention in the claim petition. It is stated that without considering the evidence on record, the labour Court passed the impugned award, setting aside the order of removal of the first respondent and consequently directing the Corporation to reinstate the petitioner into service with back wages and continuity of service and further observed that the Depot Manager is at fault in removing the first respondent without verifying the enquiry and to take action against the Depot Manager for removing the first respondent without proper enquiry. Aggrieved thereby, the petitioner-Corporation filed the present writ petition.

Learned counsel for the petitioners mainly submits that there are absolutely no reasons given by the labour Court in the award for

setting aside the orders passed by the disciplinary authority. Hence he submits that the impugned award needs to be set aside.

Learned counsel for the respondents submits that instead of remanding the matter, 50% back wages may be directed to be withheld since the first respondent has now retired from service.

I am afraid the submission made by the learned counsel for the respondents cannot be accepted. If the said argument has to be accepted, it has to be held that the first respondent is guilty of the charges leveled against him. Further, a perusal of the judgment would show that no reasons are given by the labour Court while deciding the charges leveled against the first respondent. The entire award/judgment contains only couple of facts which do not decide the issue. Dealing with somewhat identical situation, the Apex Court in

Karnataka State Board Transport Corporation Vs. B.S.Hullikatti¹, held as under:

“It is misplaced sympathy by the Labour Courts in such cases when on checking it is found that the Bus Conductors have either not issued tickets to a large number of passengers, though they should have, or have issued tickets of a lower denomination knowing fully well the correct fare to be charged. It is the responsibility of the bus conductors to collect the correct fare from the passengers and deposit the same with the company. They act in fiduciary capacity and it would be a case of gross misconduct if knowingly they do not collect any fare or the correct amount of fare.”

Since no reasons are assigned and as the material available on record has not been considered to arrive at such finding, the order under challenge is set aside and the matter is remanded back to the Labour Court for disposal of the same, in accordance with law, within

¹ (2001) 2 SCC 574

a period of three months from the date of receipt of the order, after hearing the petitioner-Corporation and the first respondent.

Accordingly, the writ petition is allowed and the matter is remanded to the tribunal for disposal, in accordance with law. There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

JUSTICE C.PRAVEEN KUMAR

20.02.2017
vhh

