

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.2252 of 2009

ORDER:

Heard learned Standing Counsel for the petitioner. None appeared for respondent No.1 in spite of service of notice.

This writ petition was filed challenging the Award, dated 16.10.2007, passed by the Labour Court-III, Hyderabad in I.D.No.54 of 2006.

Respondent No.1 was appointed as a Casual Conductor on 10.03.1996 in the petitioner-Corporation at Warangal and his services were regularized with effect from 01.04.1997. On 22.11.2004, he was assigned the duties in the bus bearing No. AP 24 U 4359 from Vijayawada to Khammam route. While conducting the bus, a check was exercised by the checking officials at Totacherla Stage No.8/9. There were 51 passengers in the bus. The checking officials noted cash and ticket irregularities. Respondent No.1 submitted a spot explanation stating that since there was Bharath Band as a mark of protest for the arrest of Sankaracharya, as per instructions, he issued tickets to all the passengers from Kodad to Chillakallu junction. After enquiry with the police, he wanted to proceed further. He issued tickets to 20 passengers and verified 30 pass holders. However, having not been satisfied with the said explanation, a charge memo was issued to the petitioner and an enquiry was conducted. On the basis of the enquiry report, respondent No.1

was removed from service on 12.04.2005. Though he preferred appeal and review, they failed. Hence, he filed the I.D.

The Labour Court by its Award, dated 16.10.2007, partly allowed the I.D. by setting aside the order of removal from service dated 12.04.2005, and directed the petitioner to reinstate respondent No.1 into service with continuity of service, but without back wages and attendant benefits. Challenging the same, the petitioner filed the present writ petition.

The charges framed against respondent No.1 are as follows:

- (1) For your failure to observe the rule issue and start while you were conducting the vehicle No. AP 24 U 4359 on route Kodad-Vijayawada on 22.11.2004 which constitutes misconduct under Reg. 28 (xxxii) of APSRTC Employees (Conduct) Regulations, 1963?
- (2) For having collected the requisite fare amount of Rs.17/- from a lady passenger who boarded the bus at Shermahamoodpet Stage No.4 itself and bound for alight at Kanchikacherla Stage No.13 and issued a ticket No.250/626068 for Rs.3/- duly punching 05 to 05 instead of 04 to 05 as per MTD 141 the ticket is valid unto Chillakallu while you were conducting the vehicle NO.AP 24 U 4359 on route Kodad-Vijayawada on 22.11.2004 which were constitutes misconduct under Regulation 28 (xxxi) of APSRTC Employees (Conduct) Regulations, 1963?

As stated above, it is the case of respondent No.1 that he initially issued a ticket to a lady passenger who boarded the bus at Shermahamoodpet and she gave Rs.20/- for the fare of Rs.3/-. He endorsed Rs.17/- on the reverse of the ticket of Rs.3/-, which was issued to her. After ascertaining information from the Police with regard to the moving of the bus to Vijayawada, respondent

No.1 asked all the passengers for obtaining tickets up to Vijayawada. All the passengers except the lady passenger purchased tickets. Several requests of respondent No.1 did not move the lady passenger for taking a ticket. When the checking officials enquired with the said lady passenger, it was stated that she was mentally disturbed due to the death of her close relative, as such, she did not purchase the ticket. When TTI issued TPT ticket of Rs.14/-, the said lady passenger made payment without any protest. Those circumstances were taken into consideration by the Labour Court while deciding the following points:

- (1) Whether the domestic enquiry officer and the respondent were justified in holding that the petitioner was guilty under the charges leveled against him?
- (2) Whether the punishment of removal from service imposed against the petitioner was appropriate?

No oral evidence was adduced on behalf of the petitioner and respondent No.1. The petitioner filed Exs.M1 to M27 in support of its case. Respondent No.1 did not file any document. Ultimately, an Award was passed holding that respondent No.1 was guilty of Charge No.1 and he was guilty for the lessor misconduct than what was mentioned in Charge No.2 and the petitioner failed to prove the intention of respondent No.1 to misappropriate Rs.14/-, which he could have collected by issuing ticket to the lady passenger. The Labour Court opined that punishment of removal from service was on higher side.

There is no discussion with regard to Charge No.1, though the Labour Court held that it was also proved. In the absence of

proof of Charge No.2 and any discussion by the Labour Court with regard to Charge No.1, this Court is of the view that the Award does not warrant any interference and the same is upheld.

Therefore, the writ petition is dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO,J

Dt:19.07.2017

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