

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 1948 of 2009

ORDER:

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

Respondent No.1 herein was appointed as a Conductor by the petitioner-Corporation on contract basis on 04.04.1985 and his services were regularised with effect from 08.11.1985. While so, when he was conducting a bus bearing No.AP 9Z 935 on route Hyderabad-Vijayawada, at about 22.50 hours at Stage No.3-Suryapet, a check was exercised by the checking officials and found certain serious cash and ticket irregularities. A Charge Memo was issued to respondent No.1 on the spot and the same was acknowledged by him and he submitted his explanation. Based on the same, the petitioner suspended respondent No.1 from service and issued a charge sheet on 20.12.2003 framing two charges. He submitted his explanation to the charge sheet and the same was found unsatisfactory. An enquiry was conducted and the Enquiry Officer submitted his report holding that the charges framed against respondent No.1 were proved. The disciplinary authority came to the provisional conclusion that on the basis of the enquiry report, a punishment of removal from service can be imposed and accordingly a show cause notice was

issued on 26.02.2004 and the petitioner submitted his explanation which was found not satisfactory by the disciplinary authority. A final order of removal was passed on 16.03.2004. The appeal and the review filed by respondent No.1 before the competent authorities were rejected on merits by orders, dated 09.08.2004 and 01.12.2004 respectively. Thereafter, respondent No.1 raised industrial dispute, being I.D.No.100 of 2005 before the Presiding Officer, Labour Court-1, Andhra Pradesh. The Labour Court by its Award, dated 16.08.2007, partly allowed the I.D. and directed reinstatement of respondent No.1 into service with continuity of service and all other attendant benefits, but without back wages. Thereafter, respondent No.1 was reinstated into service on 17.01.2008 and one year after the reinstatement, the present writ petition was filed challenging the Award passed by the Labour Court.

Learned Standing Counsel for the petitioner submitted that respondent No.1 filed a Memo before the Labour Court on 02.04.2007 stating that he is not disputing the procedural aspect of the domestic enquiry, but disputing the findings and in view of oral and documentary evidence, the enquiry report cannot be found fault with. He further submitted that when the enquiry was conducted fairly and the evidence of respondent No.1 fairly discloses that he committed irregularities, the Labour Court should not have interfered with the order of removal.

Before the Labour Court, no oral evidence was adduced by the parties. Respondent No.1 did not produce any documentary evidence, but the petitioner produced Exs.M1 to M21.

The charges framed against the petitioner read as follows:

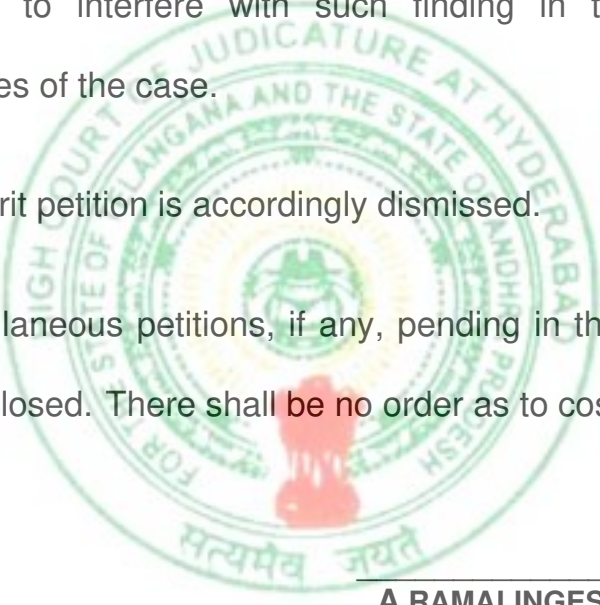
- (1) For having failed to issue correct tickets to the passengers which constitutes misconduct in terms of Reg.28 (iv) (a) of APSRTC Employees (Conduct) Reg.1963.;
- (2) For having collected the requisite fare of Rs.62/- from a passenger who boarded your bus at Vijayawada and alighting at Suryapet, ex-stages 6 to 3 with tickets bearing Nos. 609/014925 of Rs.20/- denomination E-1, 008/065071 of Rs.10/- denomination E-1 and 065/396303 of Rs.2/- denomination E-1 i.e. total tickets value Rs.32/- only, but you have failed to issue tickets for the difference of Rs.30/-, which constitutes misconduct in terms of Reg.28 (xxv) of APSRTC Employees (Conduct) Reg.1963.

A perusal of the above charges shows that respondent No.1 collected an amount of Rs.62/- from a passenger who boarded the bus at Vijayawada and alighted at Suryapet, but issued tickets worth Rs.32/- (denomination of Rs.20/-, Rs.10/- and Rs.2/-). The Labour Court came to the conclusion that respondent No.1, who was working as Conductor, with *bona fide* belief, due to his inadvertence, issued ticket of Rs.20/- instead of Rs.50/- and thereby, there is a difference of ticket value of Rs.30/-. The explanation of respondent No.1 was that the colour of the tickets of Rs.20/- and 50/- was similar and by mistake, he issued a ticket

of Rs.20/- instead of Rs.50/-. It was also noticed by the Labour Court that the tickets were placed in the tray side by side. When the passenger asked for issuance of ticket from Vijayawada to Suryapet, Instead of ticket of Rs.62/-, respondent No.1 issued tickets worth Rs.32/- (denomination of Rs.20/-, Rs.10/- and Rs.2/-). Since this is an isolated incident based on the mistake of the colour of the ticket, benefit of doubt was given by the Labour Court to respondent No.1. Since a finding was recorded by the Labour Court on the basis of documentary evidence, this Court is not inclined to interfere with such finding in the facts and circumstances of the case.

The writ petition is accordingly 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:14.06.2017

kdl

