

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.11066 OF 2013

ORDER:

The present writ petition came to be filed seeking issuance of writ of *mandamus* to declare the Office Order No.01.804(01)/2013-NSP, dated 28.03.2013, issued to the petitioner insofar as ordering for recovery of Rs.16,642/- towards the face value of the lost tickets from the used blocks as illegal and arbitrary and consequently, set aside the said proceedings.

2. The facts which lead to filing of the present writ petition are as under:-

The petitioner herein joined in the Andhra Pradesh State Road Transport Corporation (for short, "the Corporation") as a Conductor on 08.01.2009. His services were regularized on 01.01.2011. On 12.01.2013, the petitioner reported at Mahatma Gandhi Bus Station Complex at 15.50 hours to conduct special service between Narsapuram and Hyderabad. On a telephonic advice, he proceeded to room No.7 to report to Station Manager's Office. On returning to the place where the bus was parked, he noticed that the ticket tray box bearing No.085 having various ticket blocks valuing at about Rs.40,242/- was missing. Immediately, he lodged a report with the Inspector of Police, Afzalgunj Police Station as well as to the depot authorities. After coming back from Hyderabad to Narsapuram, the petitioner reported to Depot Manager, Narsapuram about the lost ticket tray along with a copy of the police report. Initially, he was placed

under Depot spare and later, issued charge sheet, dated 16.01.2013. The Sub-Inspector of Police (Crimes), Afzalgunj Police Station issued a non-traceable certificate, dated 30.01.2013, stating that all their efforts to trace the ticket tray turned futile. An explanation to the charge memo was submitted on 31.01.2013, denying the charge levelled against him. Later, an office order-cum-show cause notice, dated 15.02.2013, came to be issued proposing recovery of Rs.16,862/- towards the value of the used blocks amounting to Rs.16,642/- and printing charges for 11 full blocks amounting to Rs.220/- @ Rs.20/- per each block. It was also proposed for stoppage of one annual increment without effective of postponing the future increments. He submitted his explanation through the Assistant Manager (T), A.P.S.R.T.C., Narsapuram, dated 11.03.2013. It is said that without considering his explanation, the Depot Manager issued the office order, dated 28.03.2013, confirming the show cause notice. Aggrieved by the same, the present writ petition came to be filed.

3. Learned counsel for the petitioner mainly submits that the findings arrived at by the authority, without considering the explanation given by the petitioner, are illegal, improper and incorrect. According to him, the order of withholding the annual increment for a period of one year shall not have the effect of postponing the future increment is not illegal, but recovery of an amount of Rs.16,862 is incorrect. He placed on record the report given to Afzalgunj Police Station about the theft of tray and also the non-traceable certificate given by the Sub-Inspector.

4. A counter came to be filed disputing the averments made in the affidavit filed in support of the writ petition. It is stated that the petitioner failed to submit his explanation within the time stipulated though acknowledged on 04.03.2013 and as such, a final order, dated 28.03.2013, came to be passed for recovery of amount of Rs.16,862/- besides deferment of his annual increment for a period of one year, which shall not have the effect of postponing his future increments. It is said that it is the minimum responsibility of the petitioner was to keep the tray box under safe custody before he leaves the bus for any other purpose. Since it was found to be a case of gross negligence, the authorities were justified in passing the impugned order.

5. It would be useful to extract the charge, which reads as under:

“For having lost the Tray Box No.085 containing the tickets blocks of various denominations as detailed above from item No.1 to item No.29 valuing Rs.40,242-00 at Mahathma Gandhi Bus Station Complex, Hyderabad without taking any precautionary measures for its safe custody, while you were conducting the Special Service with service bus No.AP29Z:2227 of Narsapuram Depot on the route, Narsapuram-Hyderabad on 12-01-2013, which shows your gross negligence in discharging your legitimate duties as Conductor and constitutes serious misconduct vide Regulation-28(ix)(a), (v) & (xxxii) of A.P.S.R.T.C. Employees (Conduct) Regulations, 1963.”

After considering the explanation, he was imposed with a penalty of payment of Rs.16,862/- i.e., Rs.16,642/- towards cost of the used blocks + Rs.220/- towards printing charges. It is urged by the learned counsel for the petitioner that even if the charge against the petitioner is proved, a penalty of payment of

Rs.16,862/- cannot be imposed. He placed reliance on Clause 40.07 of the Operation Manual, which reads as under:-

“40.07. Face value of the tickets lost is not liable to be recovered from the person responsible. However, cost of the paper and printing charges are liable to be recovered apart from other action than may be taken vide para 40.06.”

6. In view of the above provision, learned counsel for the petitioner would submit that at the best, the loss which was incurred by the Corporation could not be recovered from the petitioner. It is not the case of the Corporation that there was any fraud committed by the petitioner nor was there was any finding to the effect that the petitioner or anybody else has misused the tickets thereby causing loss to the Corporation. No material has been placed before any of the authorities to show that these tickets were put to use. Therefore, an inference cannot be drawn that these tickets were used elsewhere. It may be true that it is difficult to trace out as to whether the said tickets were put to use or not, but in the absence of any evidence to that effect, a presumption cannot be drawn that these tickets were used elsewhere thereby, causing loss to the Corporation.

7. The penalties, as prescribed under Regulation 8 of the A.P.S.R.T.C. Employees (Conduct) Regulations, 1963, read as under:-

“8. Penalties:- (1) The following penalties may, for good and sufficient reason and as hereinafter provided, be imposed upon an employee, namely;

(i) to (iv)

(v) recovery from pay of the whole or part of any pecuniary loss caused to the Corporation by an employee's negligence or breach of orders."

Under this provision, if the Corporation faces a pecuniary loss due to negligence of an employee, the amount lost by the Corporation can be recovered wholly or partly. In no case, an amount more than the amount which was lost by the Corporation can be recovered from the negligent officer. Therefore, Clause (v) of Regulation 8 of the said Regulations does not permit the Corporation to impose a penalty which is more than the amount of the loss caused to the Corporation. Admittedly, in the instant case, the Corporation has lost the tray and the tickets and also suffered loss of Rs.220/- towards printing charges for the tickets. In similar circumstances, this Hon'ble Court, in **Ch.P.Reddy, appellants vs. A.P.S.R.T.C., Hyderabad and another, respondents** (reported in 2000 (5) ALD 93), set aside the amount of penalty imposed towards the value of the tickets and the Corporation was directed to recover only the printing value of the tickets and the cost of the tray.

8. For the aforesaid reasons and following the judgment referred to above, the Writ Petition is allowed and the impugned order is quashed. However, the respondent Corporation shall recover the amount only to the extent of the value of the tray and the cost of the printing charges of the tickets, which were lost along with the tray. It is needless to mention that if any amount is recovered from the petitioner, the respondent Corporation shall adjust the same towards the loss caused and return the remaining amount. There shall be no order as to costs.

9. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE C.PRAVEEN KUMAR

Date:27.04.2017
AMD



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