

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.1300 OF 2009

ORDER:

Heard learned standing counsel for the petitioners and the learned counsel for the first respondent.

The first respondent was engaged as casual conductor on daily wage basis with effect from 26.12.1986. His services were terminated on 18.09.1987 for cash and ticket irregularities and was re-appointed on 17.12.1987 by virtue of the orders passed in appeal. He was once again disengaged from service for cash and ticket irregularities and was reinstated in service by an Award of the Labour Court in I.D.No.359 of 1992 and his services were regularised with effect from 01.03.1996. While so, during the check on 15.09.2004, another cash and ticket irregularity was noticed by the Checking Officer and the following charges were framed against him.

1. "You have collected the requisite fare of Rs.5/- at the boarding point itself from a passenger who boarded the bus at Sec'bad Stn., and bound for Lakdikapool (Ex.stages 8 to 4) and re-issued ticket bearing No.533/452821 of Rs.5/- deno., which already sold and accounted in the STAR bearing No.016455861, dated 15.09.04 in previous trip at 10.14 hrs from Mehdipatnam to Sec'bad Stn., at stage No.3 which constitutes misconduct under Reg.28(xxiii) &(xxxii) of APSRTC Employees (Conduct) Reg.1963."

2. "You have collected the requisite fare of Rs.5/- at the boarding point itself from a lady passenger who boarded the bus at Sec'bad Stn., and bound for Liberty (Ex.stages 8 to 5/4) and re-issued ticket bearing No.533/452822 of Rs.5/- deno., which already sold and accounted in the STAR bearing No.016455861, dated 15.09.04 in previous trip at 10.14 hrs from Mehdipatnam to Sec'bad Stn., at stage No.3 which constitutes misconduct under Reg.28(xxiii) &(xxxii) of APSRTC Employees (Conduct) Reg.1963."

3. "You have closed the STAR bearing No.016455862, dated 15.09.04 upto stage No.6 without completing correct ticket issues which constitutes misconduct under Reg.28(xxv) of APSRTC Employees (Conduct) Reg. 1963."

The first respondent submitted his explanation and as the same was found to be non-satisfactory, a regular enquiry was conducted, wherein the charges were held proved. On the basis of the report submitted by the Enquiry Officer, objections of the first respondent were called on 19.10.2004. The first respondent submitted his objections. After receiving objections, a final order removing the first respondent from service was passed on 09.12.2004. The appeal preferred by him to the Divisional Manager was rejected on 21.03.2005. The review petition was also rejected on 05.11.2005. Thereupon, the first respondent raised I.D.No.70 of 2005 and the Labour Court by its Award, dated 03.04.2007 set aside the order of removal, dated 09.12.2004 and directed the petitioner herein to reinstate the first respondent into service with continuity of service except back wages. Challenging the same, the present writ petition is filed.

Learned standing counsel for the petitioners submits that the Labour Court erred in directing the Corporation to reinstate the first respondent into service while setting aside the order of removal of the first respondent, when it is a clear case of cash and ticket irregularity, which was proved in enquiry conducted by the Corporation.

I have carefully perused the charges and the reasoning given by the Labour Court. The Labour Court while passing the Award in favour of the first respondent gave the following reasons.

In the present case, he has also closed the STAR bearing No.061/455862 upto the stage No.6 for which third charge was also framed against the petitioner. If really he was having any bad intention he would have not closed the stage No.6. This fact shows that he has issued the ticket and closed the stage No.6.

The circumstances show that there is scope that the passenger to play some foul either by showing the tickets previously obtained by him or with an intention to escape to take tickets from the conductor by using the previous tickets. It is very clear that the petitioner also made protest at the time of recording the statement under protest, which is also very clear from Ex.M-3 and Ex.M.7 shows that he protested the situation and made such an endorsement. Apart from that at the time of enquiry, the passenger gave a different statement contrary to his earlier statement. The enquiry officer recorded the said statement. His version shows that he is having some other tickets also at the time of checking he showed some other tickets instead of the tickets purchased by him. His version shows that the checking officials did not ask him whether he was having any other tickets. He gave earlier statement as time is over to go to office but he is having some other tickets along with him. In this particular matter the respondent closed the S.R., i.e., at stage No.6 and his evidence shows that he issued tickets to all of them, if really he has not issued he would have not closed the same and it appears that the passengers might have shown some other tickets instead of tickets issued to him as he was in hurry to go to his office. His statement was not cross-examined or elicits anything in favour of the respondent. Absolutely, there is no necessity to discard the statement, which was in favour of the petitioner and unchallenged.

The charges framed against the first respondent do not relate to ticketless travel by the passenger but a case of re-issue of tickets by the conductor. If it is a case of re-issue, the conductor could not have closed the S.R., at stage No.6, as rightly pointed out by the Labour Court. In view of the allegation against the first respondent, the Corporation officials should have verified the cash available in the hands of the first respondent with the tickets issued and no such attempt was made. In the absence of proving the case by the petitioners, it cannot be held that the charges are proved against the first respondent. The reasoning adopted by the Labour Court on the facts and circumstances of the case appears to be correct and it does not warrant any interference of this Court.

The writ petition is accordingly dismissed. Miscellaneous petitions, if any pending, in this writ petition, shall stand closed.

A.RAMALINGESWARA RAO, J

14.06.2017
pln

