

**THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION No.16870 OF 2011**

**DATED : 14.11.2017**

Between :

Md. Khaleel Pasha,  
s/o.Mustafa, Aged about 46 yrs,  
Occu : Ex-Conductor, E-304149,  
APSRTC, Khammam Depot,  
R/o.H.No.8-4-239, Nizampet,  
Khammam District.

.. Petitioner

And

Industrial Tribunal-cum-Labour Court,  
Warangal, Warangal District & others.

.. Respondents



This court made the following :

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**ORDER :**

Petitioner claims to have joined as temporary conductor in the year 1987 and later his services were regularized in the year 1988. He was conducting the bus bearing No.1383 on route Khammam-Bhadrachalam-Mothugudem. On 12.04.2008 at stage No.37 the check was undertaken and in that process, the checking officials found cash and ticket irregularities. Accordingly, charge memo was served on the petitioner. The charge memo contained five charges. In the domestic enquiry, the enquiry officer held charges 1, 2, 3 and 5 as proved and charge No.4 as not proved. Basing on the findings of the enquiry officer, petitioner was removed from service by order dated 30.06.2008. The appeal and review filed by the petitioner were rejected. Aggrieved thereby, petitioner raised Industrial Dispute No.77 of 2008 on the file of Industrial Tribunal-cum-Labour Court at Warangal (for brevity 'Labour Court'). By the Award dated 30.07.2010 the Labour Court affirmed the disciplinary action and has also rejected the plea of the petitioner for interfering with quantum of punishment. Hence, this writ petition.

2. Heard Sri T.Pradyoth, learned counsel representing the learned counsel for the petitioner on record and Sri B.Mayur Reddy, learned Standing Counsel for the Respondent-Corporation.

3. Learned counsel for the petitioner contended that in the domestic enquiry and before the Labour Court the crucial facts were not ascertained that the excess cash was not found in the

possession of petitioner and that punching was not done before making the allegation of issuing already utilized tickets, as alleged and that there was no misconduct on the part of petitioner as alleged. Learned counsel also sought to contend that he was not well on the said date. Therefore, there may be some lapse in carrying on his activities and that should have been given credence while holding the charges as proved and imposing punishment. He further submits that the Labour Court has not appreciated the material on record and mechanically upheld the decision of disciplinary authority and affirmed the decision. He would submit that the Labour Court erred in not exercising discretionary jurisdiction under Section 11-A of the Industrial Disputes Act, in modulating the punishment imposed and on account of removal from service, grave prejudice is caused to the petitioner and his family and that petitioner has rendered unblemished service of more than 20 years before the impugned disciplinary action.

4. Per contra, learned Standing Counsel submits that the material on record would clearly show that there is clear dereliction of duty by the petitioner and the allegations would clearly show that there was mis-appropriation by issuing used tickets. Reasonable opportunity was given to the petitioner and on due consideration of material on record, punishment was imposed. He would submit that no error was committed by the Labour Court in appreciating the material on record, coming to the conclusion and affirming the decision of the disciplinary authority. He further submits that the scope of judicial review against the Awards passed by the Labour Court is limited and this Court cannot traverse the findings on merits. In support of the said contention,

he placed reliance on two decisions of the Hon'ble Supreme Court in ***U.P.State Road Transport Corporation Vs Suresh Chand Sharma***<sup>1</sup> and ***Union of India and others Vs P.Gunasekaran***<sup>2</sup>.

5. Two grave allegations are found in charges 2 and 3.

5.1 The sum and substance of allegation in charge No.2 is that petitioner collected Rs.40/- from two passengers at the boarding point who boarded the bus at stage 33 and alighted at stage 37 and issued tickets of Rs.20/- denomination each which were already accounted and issued at Bhadrachalam on 12.04.2008.

5.2. The sum and substance of the allegation in charge No.3 is that petitioner collected Rs.28/- from two passengers at the boarding point at stage 33 and alighted at stage 37 and issued ticket of Rs.8/- denomination which was already issued and accounted for.

6. In the domestic enquiry, these two charges were held proved. On thorough analysis of the evidence on record, the Labour Court held that there is no error committed by the employer in holding the charges as proved.

7. The stand of the petitioner that he was unwell, therefore he could not move and verify the entry of passengers and it was not a case of deliberate dereliction of duties by the petitioner in not issuing tickets to passengers was not accepted by the Labour Court.

8. According to the findings recorded by the Labour Court, at the relevant point of time, there were only four passengers in the bus and therefore, it cannot be said that petitioner could not verify

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<sup>1</sup> (2010) 6 Supreme Court Cases 555

<sup>2</sup> (2015) 2 Supreme Court Cases 610

the number of passengers travelling and collection of tickets. Even assuming that petitioner was unwell, according to the Labour Court the entries in SR reveal that there were 20 passengers up to Chinthur Stage No.33 and from Chinthur to Mothugudem, there were only four passengers noted in the S.R at stages 35 and 36. Hence, the Labour Court did not agree with the contention of the petitioner that it was not deliberately done and because of health condition only, the tickets could not be properly issued. The Labour Court also noticed that it was not a case of not issuing tickets but fare was collected but issued old used tickets. The Labour Court also found that the statements of the passengers were recorded and petitioner authenticated on the said statements without any protest.

9. On the quantum of punishment the Labour Court also elaborately discussed the contentions urged and having found that the allegations are grave and that petitioner indulged in corrupt activities in collecting fares and issuing used tickets, the Labour Court was not inclined to exercise its discretionary jurisdiction under Section 11-A of the Industrial Disputes Act, in moulding the prayer.

10. As rightly pointed out by learned standing counsel, the scope of judicial review against the Awards passed by Labour Court is very limited. This Court can interfere only when there is patent error in exercise of jurisdiction and perversity in the findings recorded by the Labour Court. These two parameters are not satisfied in the case on hand. This Court do not sit in appeal over the decision of the Labour Court to re-appreciate the material on record and come to a different conclusion.

11. I see no error in the analysis of evidence on record and findings recorded by the Labour Court. There is no perversity in the decision of Labour Court warranting exercise of power of judicial review under Article 226 of the Constitution of India to set aside the Award of Labour Court.

12. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

14<sup>th</sup> November 2017  
Rds

**P.NAVEEN RAO,J**

