

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.17620 of 2017

ORDER:

This Writ Petition has been filed by petitioners challenging the award dt.04-07-2013 in I.D.No.118 of 2009 of the 2nd respondent, which was notified in the Gazette vide G.O. Rt.No.802 dt.17-08-2013.

2. One S.Jameelu was employed as Conductor in the Andhra Pradesh State Road Transport Corporation. He was the conductor of a bus from Tuni to Kottam on 15-07-2006. A check was conducted at 15.00 hours by the TTIs Regi-Enforcement Squad, Rajahmundry and they found that a lady passenger is alighting the bus without ticket and the Conductor had not collected ticket fare and did not issue ticket to her.

3. The following charges were leveled against the Conductor:

“1) For having failed to collect the requisite fare of Rs.3/- and issue ticket to a lady passenger, who boarded the bus at Mallavaram and found alighting without ticket at Kottam (Ex-stages 4/5 to 5)while you were conducting bus No.AP5V 3932 on the route Tuni-Kottam on 15-7-2006 which constitutes misconduct under Eg.No.28(vi.a) of APSRTC Employees’ (Conduct) Regulations, 1963

2) For having instigated some of the bus passengers and the villagers gathered there against TTIs on 15.7.2006 at stage No.5 (Kottam point) to the extent of subjected the TTIs to face coercion from them even to the

extent of stopping their squad jeep and snatched the jeep keys and the alighting tickets and service SR from the TTIs at the time of check by way of twisting the matter and tactfully set the matter by you to gain the favour of the traveling public as well as villagers including your gross misbehaviour against the TTIs with the help of some of the bus passengers and the villagers gathered there at the time of check, while you are conducting the bus No.AP5V 3932 on the route Tuni-Kottam which constitutes serious misconduct under Reg.No.28(viii) & (xxxi) of APSRTC Employees' (Conduct) Regulations, 1963.

3) For having caused the TTIs unable to frame the case against you vide charge memo and other important check documents preparation and serving on you at the time of while you are conducting the bus AP5v 3932 on the route Tuni-Kottam on 15.7.2006 by way creating a tense situation, and by way of your gross misbehaviour by using filthy language against the TTIs which constitutes serious misconduct under Reg.No.28(viii) & (xxxi) of APSRTC Employees' (Conduct) Regulations, 1963."

4. An enquiry was conducted wherein the Conductor denied the charges and alleged that the TTIs intentionally misplaced the ticket and booked a false case against him.

5. Charges leveled against the Conductor were proved in the Enquiry. Thereafter a punishment of reduction of basic pay by two incremental stages permanently besides treating the suspension period as not on duty for the purpose of leave and increment, was imposed.

6. Appeal and review filed by him before the higher authorities were rejected.

7. The 1st respondent then raised an Industrial Dispute, which was referred to the 2nd respondent for adjudication. It was numbered as I.D.No.118 of 2009.

8. By award dt.04-07-2013, the 2nd respondent modified the punishment imposed on the Conductor as one of reduction of basic pay by one incremental stage permanently only and set aside the punishment imposed by the Management.

9. The 2nd respondent held that the TTIs did not verify the cash bag to know whether the Conductor issued ticket to the passenger or not; that the involvement of the public obstructed the checking process and the incident had become a galata; and therefore the truth of the cause could not come out. It held that though the fact that the passenger got down from the bus at the time of the check without ticket was proved, but due to the incident mentioned in the second charge, the said issue could not be gone into in the enquiry. Therefore it held that for the negligence of the conductor in not observing that the passenger had alighted without paying the ticket, punishment of reduction of basic pay by one incremental stage permanently will meet the ends of justice.

10. Though this award has been passed on 04-07-2013 and was published on 17-08-2013, the present Writ Petition has been filed on 01-06-2017, almost 4 years thereafter. The reason given for the delay in the affidavit filed in support of the Writ Petition

was that copy of the award was received in the Office of the Regional Manager, Eluru and it was sent on 09-09-2014 to the Senior Law Officer, APSRTC, Law Department at Hyderabad for opinion and opinion was given on 17-09-2014 to challenge the award in the Labour Court. It is further stated that the file was then sent to the Standing Counsel in the High Court on 20-09-2014, who requested for certain documents like the claim petition and reference orders; that they were furnished in October, 2014; in December, 2014 new Standing Counsel was appointed and the case bundle got mixed with other closed case bundles and found later.

11. Why the Office of the Regional Manager, Eluru delayed the sending of the copy of the award upto September, 2014 to the Senior Law Officer, APSRTC, Law Department, Hyderabad is not explained. Further, what the Law Department was doing after October, 2014 without verifying whether the Standing Counsel had filed the Writ Petition for a period of 3 years, is also not explained. Therefore, the Writ Petition is filed with abnormal laches without any satisfactory explanation.

12. That apart, the fact that the 2nd respondent is empowered under Section 11-A of the Industrial Disputes Act, 1947 to modify the quantum of punishment imposed by the Management, is not denied. In the present case, the 2nd respondent categorically observed that the charge of not issuing ticket could

not be proved in view of galata which took place at the time of checking process though it was found that there was one ticketless passenger. In any event, the 2nd respondent had not totally exonerated the workman/conductor and has only interfered with the punishment on the ground that denying two increments permanently is a disproportionate punishment. This view cannot be said to be perverse warranting interference by this Court in exercise of its power under Article 226 of the Constitution of India.

13. Therefore, I do not find any merit in the Writ Petition and it is accordingly dismissed. No costs.

14. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.



JUSTICE M.S.RAMACHANDRA RAO

Date: 05-06-2017
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