

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.35568 OF 2017

ORDER:

Heard learned counsel for the petitioner and the learned standing counsel for the respondents.

The petitioner was appointed in the erstwhile Andhra Pradesh State Road Transport Corporation (APSRTC) as Conductor in the year 2013 on compassionate grounds. While he was conducting bus on the route Varikole on 30.08.2015, a check was exercised and, cash and ticket irregularity was noticed. He was placed under suspension by proceedings, dated 09.09.2015 and he submitted his explanation to the charges on 23.09.2015. However, a domestic enquiry was conducted and on the basis of the enquiry report, an order was passed on 13.05.2016 removing the petitioner from service. Against the said order, the petitioner preferred an Appeal and the same was dismissed on 12.12.2016. The review preferred by the petitioner before the third respondent was also dismissed by order dated 23.02.2017. The Review Appeal preferred before the second respondent was dismissed on 12.05.2017. Challenging the same, the present writ petition is filed.

The charges levelled against the petitioner are as follows:

1. For having collected the requisite fare of Rs.14/- i.e., Rs.7/- each from (2) two passengers at their boarding place and issued the MTD 141 card No.A63497, who boarded the bus at Parkar and bound for Puligilla ex-stages 1 to 3, which constitutes misconduct U/R 28(x) & (xxv) of APSRTC Employees Reg, 1963".
2. For having collected the requisite fare of Rs.14/- i.e., Rs.7/- each from (2) two passengers at their boarding place and failed to issue the tickets, who boarded the bus at Parkar and bound for Puligilla ex-stages 1 to 3, which constitutes misconduct U/R 28(x) & (xxv) of APSRTC Employees Reg, 1963".

In the enquiry, it is held that the charges are proved. However, the petitioner preferred an Appeal to the Divisional Manager, Warangal, and the same was dismissed on 12.12.2016. Subsequently, the petitioner preferred Review Petition before the third respondent and the third respondent passed the following order by order dated 23.02.2017 while rejecting the Appeal.

"I have carefully gone through the contents of the Review Petition together with connected records. I do not agree with the reasons put forth by the appellant through her review petition. As per the evidences available on records, it is observed that the appellant was involved in serious cash and ticket irregularities case. The enquiry officer had proved that the charges levelled against the petitioner are proved beyond any reasonable doubt. Hence, the DM/PRKL passed removal orders which is correct as per the procedure. The DVM/WL (R) has rejected the appeal.

On perusal of the report of the Enquiry Officer, it clearly shows that the appellant involved in serious cash and ticket irregularities case. I am not convinced with the reasons put forth by the petitioner. Hence, I hold that the punishment imposed by the DM/PRKL is quite justified which is commensurate to the gravity of the offence committed by him. The DVM/WL (R) has rejected the appeal and I do not find any valid grounds to interfere with the orders passed already. Hence, the Review Petition of the petitioner is hereby REJECTED."

Against the rejection of Review, the petitioner preferred Review Appeal before the second respondent and the second respondent, by order dated 12.05.2017, rejected the Review Appeal with the following observations:

"I have gone through the contents of the review petition together with connected documents. On perusal of records it is observed that the petitioner has collected requisite fare of Rs.7/- from 2 (two) (Rs.7x2+14) passengers and issued MTD 141 card No.A63497 instead of valid tickets. The contention of the Conductor in his spot explanation and explanation to the Charge Sheet and during the course of enquiry are contradicting each other i.e., in the spot explanation and in the explanation to the charge sheet, the conductor has agreed that he has collected the fare and failed to issue the tickets. Whereas, in his deposition during the course of enquiry stated that there were two more request stages before the request stage

(Malakpet), which clearly speaks that he has collected the fare and failed to issue the tickets to the said passengers. The contentions of the Conductor are only afterthoughts to cover up his guilt. Nothing prevented him to issue the tickets to the said passengers, even after passing much distance. His duty is to issue the correct tickets and then only allow the bus to move. In this case, he has failed to do so.

Thus the petitioner has defrauded the legitimate revenue of Rs.28/- (Rs.7x2) & (Rs.7x2) (from four passengers) of the Corporation. I am not convinced with the contention put forth by the petitioner in his review appeal petition, as they are made only to escape from the charges framed against him. All the charges framed against him are severe in nature and established his malafide intention of defrauding the legitimate revenue of the Corporation. Had the check not taken place, the legitimate revenues of the Corporation would have been lost. If such employees are reinstated on mercy ground, the financial position of the Corporation will be stake as Corporation amasses money only through Conductors/TIM Drivers. On verifying the personal records, the driver was removed from service thrice including this and punished 14 times. This case does not deserve any mercy. Hence, I came to conclusion that the action taken by the Depot Manager, Parkal Dy.CTM (R), WL & RM, Warangal is justified and proper for the irregularities committed by the petitioner.

I do not find any valid reasons to interfere with the orders of the Depot Manager, Parkal. Thus the review appeal preferred by K.Prasad, E.652617, Ex-Conductor of Parkal depot is REJECTED."

This Court noticed that the order passed by the Appellate Authority was not filed along with the writ petition. The Review Authority dismissed the Review based on general observations. The Revisional Authority stated that the petitioner was removed thrice from the service and he was punished 14 times, which is not proved by record. The petitioner was appointed on compassionate grounds in the year 2013 and the learned counsel for the petitioner states that this is the first alleged irregularity against the petitioner.

In the circumstances, this Court feels that the impugned order passed by the second respondent is required to be set aside and is accordingly set aside. The matter is remanded to the second respondent for consideration of the Review preferred by the petitioner afresh after

giving opportunity to the petitioner to state his case and pass appropriate orders in accordance with law within a period of three months from the date of receipt of copy of this order.

The writ petition is accordingly allowed to the extent indicated above. Consequently, miscellaneous petitions, if any pending, in this writ petition, shall stand closed.

16.11.2017
pln

A.RAMALINGESWARA RAO, J

