

**THE HON'BLE SRI JUSTICE M.GANGA RAO**

**WRIT PETITION No.10922 OF 2001**

**ORDER:**

This writ petition is filed seeking writ of certiorari and calling for the records relating to the impugned award, dated 20.12.2000 made in ID No.177 of 1998 of the respondent No.2, whereby the Industrial Tribunal-cum-Labour Court, Ananthapur reinstated the petitioner into service, with continuity of service by granting notional increments, but without any back wages.

The facts of this case, in brief, are as follows;

The respondent No.1 while he was conducting the Bus No.2171 on route Tadipatri to Pappur, a check was exercised by the Travelling Ticket Inspectors of the Headquarters, Enforcement Squad, Kadiri at stage No.1/2, at about 13.30 hours on 23.2.1997 and it was detected that certain cash and ticket irregularities were committed by the respondent No.1. A charge sheet was issued to the respondent No.1, dated 3.3.1997 framing the following charges:

- 1. For having collected an amount of Rs.88.00 from individual and batch of 11 passengers at Rs.8.00 each towards ticket fare who are travelling from Tadipatri to Pappur ex-stages 1 to 3 and issued the tickets bearing***

**No.130/862717, 718, 129/862839, 840, 856, 860, 861, 863, 864, 865 and 885 of Rs.8/- denm., which were already issued and accounted in your previous trip from Pappur to Tadipatri, which constitutes misconduct under Reg.28 (xxxii) if APSRTC, Employees (Conduct) Reg.1963.**

**2. For having violated the rule Issue and Start while you were conducting the bus No.2171 on route Tadipatri to Pappur on 23.2.97, which constitutes misconduct under Reg.28(xxxii) of APSRTC, Employees (Conduct) Reg. 1963.**

**3. For having failed to close all denominations in the S.R. against stage No.2 even though it is a special service and the bus reached stage No.1/2 i.e., Komali, which constitutes misconduct under Reg.28 (xxxii) of APSRTC, Employees (Conduct) Reg. 1963.**

The respondent No.1 submitted his explanation to the charge memo and charge sheet stating that the said 11 passengers were travelling with the previous trip tickets and the tickets were not issued by him. He issued tickets to each and every passenger. The petitioners not satisfied with the explanation submitted by the respondent No.1, appointed the Enquiry Officer. The Enquiry Officer conducted the enquiry as per the procedure prescribed by the APSRTC Employees (CC&A) Regulations 1967 duly following the principles of natural justice. Based on the evidence available on record, the Enquiry Officer's report holding that the charges are proved, the disciplinary authority on considering the report of the Enquiry Officer independently issued a show cause notice of termination to the respondent No.1 along with the report of

the Enquiry Officer and calling for his explanation. The respondent No.1 submitted his explanation to the show cause notice. The disciplinary authority having considered the report of the Enquiry Officer and explanation submitted by the respondent No.1, came to the conclusion that the charges are proved and passed the removal order on 8.8.1997 removing the respondent No.1 from service. Thereafter, the first respondent preferred an appeal and review and the same were rejected on 26.2.1998 and 15.6.1998 respectively. Being aggrieved by the termination order, the first respondent raised Industrial Dispute No.177 of 1998 before the respondent No.2 under Section 2-A(2) of the Industrial Disputes Act, 1947 seeking the relief of reinstatement into service with continuity of service, with full back wages and with all other attendant benefits. The respondent No.1 had not raised any dispute with regard to the validity of the enquiry before the Labour Court. None were examined on behalf of the respondent No.1 as well as the petitioner and no documents were marked. However, the Labour Court, based on the claim petition and counter filed, passed an award reinstating the respondent No.1 into service with continuity of service, by granting notional increments, but without any back wages. The petitioners being aggrieved by the award of the Labour Court, filed this writ petition before this Court.

Sri A.Rama Rao, learned counsel for the petitioners contended that the respondent No.1 had committed serious

cash and ticket irregularities of having collected an amount of Rs.88/- from individual and batch of 11 passengers at Rs.8/- each towards ticket fare, who are traveling from Tadipatri to Pappur ex stages, 1 to 3 and issued the tickets bearing No.130/862717, 718, 1129/862839, 840, 856, 860, 861, 863, 864, 865 and 885 of Rs.8/-, which were already issued and accounted in the previous trip from Pappur to Tadipatri. For the said misconduct, after following due procedure and conducting enquiry and based on the enquiry report, a show cause notice along with the enquiry officer's report was given to the respondent No.1 calling for his explanation. He submitted his explanation. Having considered the explanation of the respondent No.1 and also the evidence available on record, the disciplinary authority came to the conclusion that the charges are held proved against the respondent No.1 and he was imposed the punishment of removal from service on 8.8.1997. Thereafter, the respondent No.1 preferred appeal and review unsuccessfully. As the respondent No.1 committed proved misconduct of serious cash and ticket irregularities, the disciplinary authority rightly imposed the punishment, after following the due procedure contemplated under the APSRTC Employees (Conduct) Regulations 1963, whereas the respondent No.2-Labour Court on mere surmises and conjectures, without considering the evidence available on record, passed the award reinstating the respondent No.1 into service, with continuity of service by granting notional

increments but without any back wages. The Labour Court failed to see that there are only 32 passengers including 11 passengers in the charge. The 1<sup>st</sup> respondent having collected the requisite fare issued the used tickets to the passengers and thus, misappropriated the revenue of the Corporation. The Labour Court on mere surmises and conjectures came to the conclusion that the respondent No.1 was not given any notice of enquiry and proper opportunity in the enquiry. The Labour Court erroneously came to the conclusion that the Enquiry Officer failed to furnish the enquiry findings after completion of the enquiry against the respondent No.1-Workman, whereas the enquiry report was supplied to the respondent No.1 and he had submitted his explanation to the show cause notice. The findings of the Labour Court that the enquiry is conducted without following the principles of natural justice and no sufficient opportunity was given to the respondent No.1 to cross examine the witnesses are erroneous. The Labour Court having held that the charges are proved against the respondent No.1 and holding that the imposition of punishment of removal against the respondent No.1 is not justified, is based on no evidence. The award of the Labour Court and its conclusions are not based on any evidence and without any cogent reasoning. The Labour Court having come to the conclusion that the petitioner was not given any opportunity and the enquiry was not properly conducted and the punishment is disproportionate to the proved misconduct,

without addressing the said issues properly passed the award reinstating the respondent No.1 into service by granting notional increments without any back wages is illegal and the award is liable to be set aside.

The learned counsel for the respondent No.1 is absent today in the morning and then the matter was passed over till afternoon, in spite of the same, there is no representation on his behalf.

In the facts and circumstances of the case and in considered view of this Court, the respondent No.1 was removed from the service for the proved misconduct of serious cash and ticket irregularities of re-issuing the tickets to the passengers. The punishment of removal was ordered after following the due procedure as contemplated under APSRTC CCA Regulations by giving full opportunity to the 1<sup>st</sup> Respondent and following the principles of natural justice. Hence, the Labour Court grossly erred in holding that the respondent No.1 was removed from service without any notice of enquiry and without giving proper opportunity in the enquiry.

I have perused the record. The respondent No.1 was given full opportunity and he had participated in the enquiry and cross examined the witnesses. The findings of the Labour Court that the respondent No.1 was not given any notice and opportunity and his removal is contrary to the regulations and the punishment of removal is disproportionate to the proved

misconduct are not based on any evidence and are perverse. The Labour Court is not justified in granting the relief of reinstatement with continuity of service by granting notional increments but without back wages to the respondent No.1. In pursuance of the award of the Labour Court, the respondent No.1 was reinstated into service and is continuing in the service.

Hence, in view of above discussion and in the interest of justice, this court felt it would be just and reasonable to grant only reinstatement, without continuity of service and notional increments and the back wages are already denied. Accordingly, the award of the Labour Court is modified granting only reinstatement to the respondent No.1, without continuity of service and notional increments.

Accordingly, the writ petition is partly allowed. No order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

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**M.GANGA RAO, J**

**Date: 04/07/2018**

Slk

THE HON'BLE SRI JUSTICE M.GANGA RAO

