

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION Nos.11310 and 21243 OF 2002

COMMON ORDER:

Since both the writ petitions are filed questioning the same order, they are taken up together, heard and being disposed of by this common order.

W.P.No.11310 of 2002 is filed by the Andhra Pradesh State Road Transport Corporation (for short 'Corporation') and W.P.No.21243 of 2002 is filed by the workwoman questioning the award dated 09.01.2002 passed in I.D.No.271 of 1999 by the Industrial Tribunal-cum-Labour Court, Anantapur, whereby the Labour Court while setting aside the termination of the workwoman, directed the Corporation to issue fresh appointment to the workwoman, however, without any monetary or service benefits for the past service and also directed the Corporation to defer annual increments with cumulative effect to the petitioner.

Brief facts of the case are that the workwoman joined the Corporation as a conductor on 10.04.1996 and her services were regularized w.e.f.01.07.1997. On 08.08.1998, when the workwoman was conducting bus on the route Kurnool to Bastipadu, the Regional Enforcement Squad, Kurnool, exercised a check at Stage No.4/5 and found certain cash and ticket irregularities. A charge memo and charge sheet was issued to the workwoman framing the following charges:

"1) For having re-issued ticket bearing No.172/107053 of Rs.4/- denm., which was punched on stage No.2 at Nandi side and 4 & 5 at Varaku side, to a passenger by collecting Rs.2-50 ps towards his journey fare at the boarding point itself, who boarded the bus at Chinnatakur and alighting at Bestipadu, Ex-Stages 4/5 to 5, which ticket was already issued to a passenger at stage no.2

i.e. Birla Company and also accounted in the SR from stage No.2 which constitutes serious misconduct in terms of Reg.28 (vi) (a) of APSRTC Employees (Conduct) Reg. 1963.

2) For having already closed ticket tray Nos. of all dens. in the SR upto stage No.5 without completing the above ticket issues which constitutes misconduct in terms of Reg.28 (xxxii) of APSRTC Employees (conduct) Reg. 1963.

3) For having violated the rule Issue and Start.”

Workwoman submitted her explanation to the charge sheet. The Disciplinary Authority having not satisfied with such explanation, appointed an Enquiry Officer. The Enquiry Officer conducted enquiry, enquired the TTIs, passengers and also the workwoman in the enquiry. The Enquiry Officer submitted a report holding that the charges are proved. A show cause notice of removal was issued to the workwoman to which she submitted her explanation. The Disciplinary Authority having considered the enquiry report and the explanation, passed the order dated 05.01.1999 removing the workwoman from service. The workwoman was unsuccessful in the appeal and revision filed by her. Being aggrieved by the same, the workwoman filed I.D.No.271 of 1999 before the Labour Court by invoking Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'I.D. Act'). The Labour Court having considered the Enquiry Officer's report and the evidence available on record, found that the charges are proved in the enquiry and there is no irregularity in conducting the enquiry and held that the enquiry is valid. But, however, the Labour Court exercising power under Section 11-A of the I.D. Act, passed by the impugned award. Questioning the same, the present writ petition came to be filed.

Sri A.Rama Rao, learned counsel for the Corporation, would contend that the workwoman was removed from service for the proved misconduct by properly conducting enquiry as per the Regulations of the Corporation. The Labour Court having come to the conclusion that the workwoman has resorted to re-issue of tickets and committed cash and ticket irregularities, grossly erred in exercising power under Section 11-A of the I.D. Act and the Labour Court ought not have ordered the Corporation to issue fresh appointment to the workwoman.

Per contra, Smt.Udayasree, learned counsel appearing for the workwoman, would contend that the workwoman has issued correct ticket to the passenger, but due to wrong punching it was again punched at stage No.4 for which the Enquiry Officer contrary to the evidence available on record, came to the conclusion that the charge are proved against the workwoman. The Corporation only based on the Enquiry Officer's report and without properly considering the explanation of the workwoman and the evidence available on record, passed the termination order, which is illegal. The appellate authority as well as the revisional authority also failed to adjudicate the matter in proper perspective. She further contends that the Labour Court also grossly erred in holding that cash and ticket irregularities are re-issue of tickets are proved in the enquiry. The Labour Court failed to see that there is no legal evidence before the Enquiry Officer to come to such a conclusion and the petitioner's evidence was brushed aside by the Enquiry Officer in holding that the charges are proved. The Labour Court grossly erred in not granting reinstatement to the workwoman with continuity of service and attendant benefits and backwages and

imposition of punishment of denial of monetary or service benefits and deferment of annual increments with cumulative effect is harsh and disproportionate to the proved misconduct. The Labour Court having exercised the power under Section 11-A of the I.D. Act, erred in denying benefits to the workwoman.

This Court, having considered the rival contentions of the parties, came to the conclusion that the workman has re-issued the tickets and the same was proved in the enquiry and her past conduct is also not clean. In the past also, she is involved in cash and ticket irregularities and suffered punishments. As per the order of the Labour Court, the workwoman was reinstated into service. Hence, this Court finds that there is no error of law and error of fact in the award passed by the Labour Court, which calls interference of this Court under Article 226 of the Constitution of India.

Hence, both the writ petitions are dismissed.

Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

13.07.2018
sur