

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.6642 OF 2002

ORDER

The petitioner, who is the ex-conductor in the 1st respondent-APSRTC, filed this writ petition being aggrieved by the Award dated 25.6.2001 passed in I.D.No.104 of 1998 by the Industrial Tribunal-cum-Labour Court, Warangal, whereunder the Labour Court confirmed the removal order passed by the respondent-Corporation.

The brief facts of the case are that the petitioner was appointed as casual conductor in the 1st respondent-Corporation in the year 1983 and his services were regularized in the year 1984. While he was conducting a bus on Bhadrachalam-Jaypore route, on 26.09.1995, the checking officials exercised check at stage No.11/12 and found that the petitioner had committed certain cash and ticket irregularities. Thereafter, the disciplinary authority issued charge sheet on 10.10.1995 framing the following charges.

(a)You have failed to observe the rule 'Issue and start' which constitutes mis-conduct under Reg.28(xxxii) of APSRTC Employees (Conduct) Reg.1963.

(b)You have collected an amount of Rs.13/- from a passenger who boarded the bus at Siler and bound for Varikal ex stages 11 to 14 and failed to issue him the ticket, hence obtained TPT No.462/260632 of Rs.10/- den. And 023/943163 of Rs.1/- den., which constitutes mis-conduct under Reg.No.28(vi)(a) of APSRTC Employees (Conduct) Reg.1963.

(c) You have issued T.Nos.278/161691 to 699 of Rs.4/- den. And 279/161500 to 502 of Rs.4/- den., tickets to (12) twelve passengers (6+1+3+2) who boarded the bus at Siler and bound for Chitragonda ex stage 11 to 12, duly collecting the requisite fare of Rs.5/- each; but these tickets, when checked with your S.R.No.A2/9600495 are found issued and accounted against stage Nos.6 and 7 and 8 hence confiscated these tickets and obtained T.Nos.282/135200 to 211 of Rs.5/- den., as the above tickets are dis-allowed, which constitutes mis-conduct under Reg.28 (xxiii) of APSRTC Employees (Conduct) Reg.1963.”

(d) You have collected an amount of Rs.5/- each from (7) seven passengers (5+2) who boarded the bus at Silder and bound for Chitrakonda, ex.stages 11 to 12, and failed to issue them tickets thus obtained TPT Nos.282/125693 to 699 of Rs.5/- den., which constitutes mis-conduct under Reg.28(vi) (a) of APSRTC Employees (Conduct) Reg.1963.

(e) You have issued T.Nos.134/713930 and 931 of Rs.7/- den., to a batch of (2) two passengers who boarded the bus at Siler and bound for Launch gate ex.stages 11 to 13 duly collecting the requisite fare of Rs.7/- each; but these tickets, when checked with your SR.No.A2/9600495, dated 27.09.1995 are found accounted against stage No.2; hence confiscated these tickets and obtained TPT Nos.134/713935 and 936 of Rs.7/- den., as the above tickets are disallowed, which constitutes mis-conduct under Reg.28(xxviii) of APSRTC Employees (Conduct) Reg.1963.

(f) Failed to close the SR against stage No.12 of Rs.4/- den., hence marked “XX” confiscated the S.No.A2/9600495 and issued substitute SR No.AO/1624553 duly opening the tickets nos. pertaining to your tray, which constitutes misconduct under Reg.28(xxxii) of APSRTC Employees (Conduct) Reg.1963.”

Pursuant to the same, the petitioner submitted his explanation denying the charges. Being not satisfied with the explanation submitted by the petitioner, the disciplinary authority ordered for domestic enquiry. The enquiry officer was appointed to conduct enquiry into charges levelled against the petitioner. The enquiry officer, examined the TTIs and recorded their common evidence and common cross-examination. The enquiry officer submitted his report holding that the charges are proved. Based on the report of the enquiry officer, show cause notice dated 26.2.1996 was issued to the petitioner, for which, he submitted his explanation on 8.3.1996. After considering his explanation, 1st respondent-Corporation passed the impugned order dated 11.3.1996 removing the petitioner from service. Aggrieved by the same, the petitioner preferred an appeal before the Deputy Chief Traffic Manager, Khammam, but the same was rejected. Hence, he preferred a review petition before the Regional Manager, Khammam, and the same was also rejected. The petitioner also filed a mercy petition, but it was also rejected on 04.12.1997. Thereafter, the petitioner raised an industrial dispute *vide* I.D.No.104 of 1998 before the Industrial Tribunal-cum-Labour Court, Warangal, against the removal order, under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act'). The Labour

Court, after considering the evidence before it, had come to the conclusion that the enquiry was valid and charges were proved against the petitioner; the petitioner was earlier removed from service on two occasions and thereafter, reinstated into service; he was in service for three years and out of service from 1987 to 02.12.1994; in spite of his earlier punishments, the petitioner never made any attempt to discharge his duties effectively; and held that the petitioner does not deserve any lenient view to set aside the punishment imposed against him and confirmed the removal order passed by the respondent-Corporation as there was no illegality in removing the petitioner for his proved misconduct *vide* order dated 25.06.2001. The petitioner's claim in I.D.No.104 of 1998 was dismissed. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that when the petitioner was conducting the bus on 26.09.1995 on the route Bhadrachalam to Jaypore, there were about 69 passengers travelling in the bus and he had issued tickets to 22 passengers; when there was a quarrel between the passengers, he could not issue the tickets properly to the passengers; the enquiry officer conducted the enquiry *ex parte* and without considering the statements given by the

passengers in the enquiry, submitted his report holding that the charges were proved; the disciplinary authority, without considering the explanation submitted by the petitioner, issued the show cause notice and thereafter, passed the removal order; the appellate authority as well as the revisional authority had also not considered the appeal in its proper perspective and rejected the same; and the Labour Court also not properly considered his defence before the enquiry officer, the statements of the passengers given in the enquiry, the explanation submitted by him to the show cause notice and on erroneous appreciation of facts and law, dismissed I.D.No.104 of 1998. Learned counsel further contends that the findings of the Labour Court that the charges with regard to cash and ticket irregularities were proved in the enquiry and that the petitioner is not entitled to any lesser punishment than that of removal from service, are erroneous and the Labour Court had not appreciated the facts properly in exercise of powers under Section 11-A of the Act and the impugned award needs to be set aside.

Per contra, learned Standing Counsel appearing for the respondent-Corporation contends that the petitioner had indulged in serious cash and tickets irregularities and the same was proved in the enquiry and that the enquiry was

conducted in accordance with the rules. He further contends that the petitioner had rendered active service only for a period of three years and therefore, he does not deserve any sympathy; that he is not entitled for any lesser punishment than that of the proved misconduct and that there is no illegality in the award passed by the Labour Court as it had rightly dismissed I.D.No.104 of 1998.

As can be seen from the record, it appears that the petitioner had committed serious cash and ticket irregularities, which are proved in the enquiry and the Labour Court also rightly came to the conclusion that the charges were proved in the enquiry and there is no illegality in terminating the services of the petitioner. Hence, this Court is of the considered view that there is no apparent error in the Award passed by the Labour Court and the Labour Court rightly dismissed I.D.No.104 of 1998, confirming the removal order passed by the disciplinary authority.

Accordingly, the Writ Petition is dismissed. Since the petitioner had already attained the age of superannuation, and his service benefits are withheld for long time, he is given liberty to make a representation to the respondent-Corporation for retirement benefits and he is also entitled for interest on the retirement benefits, if not already settled. The

respondent-Corporation is directed to consider the representation of the petitioner and pass appropriate orders thereon within a period of two months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.GANGA RAO

19th July, 2018
rkk

