

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8525 OF 2001

ORDER:

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with the Award dated 22.1.2001 passed by the 1st respondent-Industrial Tribunal-II, Hyderabad, in I.D.No.41 of 2000, and to quash the same by holding it as illegal and contrary to law.

2. Heard Sri A.K. Jaya Prakash Rao, learned Counsel for the petitioner and Sri N. Vasudeva Reddy, learned Standing Counsel for the 2nd respondent-Corporation.

3. The case of the petitioner in brief is as follows:

The petitioner was appointed as a conductor in the 2nd respondent-Corporation in September, 1991. On 10.10.1992 while he was conducting the bus on route Tandur to Chincholi, a check was conducted by the checking officials. On 12.10.1992 a charge memo was issued to the petitioner alleging that he failed to observe the Rule 'Issue and start'; he issued used tickets to the passengers; he altered the S.R. in the 1st trip of down journey; he took the S.R. from the checking officials forcibly, tore into pieces, thrown away through passengers' window; he further instigated the passengers, who were holding used tickets not to give their statement and run

away by taking torn ticket pieces of S.R. and also manhandled the checking officials and refused to take fresh S.R. for continuation of further service. The petitioner gave a detailed explanation for the said memo. But the 2nd respondent without considering the same, conducted enquiry and removed him from service vide order dated 16.6.1993. The review petition preferred by the petitioner was rejected. Hence, he filed I.D.No.41 of 2000 before the Tribunal. The Tribunal having considered the evidence on record, dismissed the I.D. Aggrieved by the same, the present petition has been filed.

4. The learned Counsel for the petitioner has contended that the checking officials only created trouble and they misbehaved with the passengers, and as the passengers were about to lodge a complaint against the checking officials, they foisted a false case against the petitioner. He further contends that a stage managed enquiry was conducted and the petitioner was denied reasonable opportunity to participate in the enquiry and the domestic enquiry was conducted violating principles of natural justice, and that the learned Tribunal without considering the said aspect as a preliminary issue, wrongly dismissed I.D. He further contends that the Tribunal has wrongly held that it has no power to interfere with the order of removal, even though it has ample power under Section 11-A of the Industrial Disputes Act, and therefore, the order of the Tribunal warrants interference.

5. Further, it has been contended by the learned Counsel for the petitioner that all the witnesses cited in the charge memo were not examined as witnesses before the Tribunal and the Tribunal ought to have examined some of the witnesses in the enquiry and that the Tribunal conducted comprehensive enquiry and came to a conclusion that the charge is proved.

6. The learned Standing Counsel for the 2nd respondent contends that there are serious allegations against the petitioner and all those allegations were proved in the domestic enquiry and therefore, the department removed the petitioner from service, and that the Tribunal has considered the material on record and rightly held that the order of removal does not warrant any interference.

7. I have considered the rival submissions made by the parties and perused the material available on record. The Tribunal held that the enquiry is vitiated for non-supply of documents. However, the Tribunal proceeded with the enquiry in the I.D. The said enquiry revealed that the petitioner was guilty of misconduct and therefore, the Tribunal passed nil award in the I.D. preferred by the petitioner.

8. From the order impugned, it is clear that the Tribunal conducted a detailed enquiry and dismissed the I.D. preferred by the petitioner while observing as follows:

“Basing on the material available on record came to an irresistible conclusion that the petitioner had torn the S.R. into pieces and instigated the passengers not to give statement to the TTIs and also further instigated the passengers to take away the S.R. pieces is proved and it is very serious misconduct. It must be dealt with severely.

As per the above judgments when this Court come to a conclusion that the petitioner involved in cash and ticket irregularities and other serious irregularities, the Tribunal has no power to interfere with the punishment imposed by the disciplinary authority.”

When once the learned Tribunal after appreciating the evidence has come to an irresistible conclusion that the petitioner was responsible for the misconduct alleged by the authority, this Court is not inclined to interfere with the award passed by the Tribunal.

9. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

ABHINAND KUMAR SHAVILI, J

Dated:27.07.2018

Nn.

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