

THE HON'BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.23420 of 2000

ORDER:

The petitioner who is a conductor in the 2nd respondent Corporation (A.P.S.R.T.C) filed this writ petition being aggrieved by the Award of the Industrial Tribunal-cum-Labour Court, Godavarikhani passed in I.D.No.2 of 1997 dated 6.9.2000 whereby the Labour Court dismissed the petition filed under section 2-A (2) of the Industrial Tribunal Act.

Brief facts of the case are that the petitioner was appointed as a Conductor in the 2nd respondent Corporation in the year 1985. On 5.4.1993 while he was conducting bus bearing No.AEZ 602 on route Kamareddy to V.Palli (Marrimadla), the Travelling Ticket Inspector exercised check and found certain cash and ticket irregularities and issued charge sheet dated 19.4.1993 with the following charges:-

“Charge No.1: For having violated the rule of issue and start which constitutes misconduct in terms of Reg.28 (xxxii) of APSRTC Employees (Conduct) Reg. 1963.

Charge No.2: For having re-issued the tickets bearing No.238/251995 and 238/251997 of Rs.4.25 deno. to the batch of 2 passengers even after collecting the requisite fare from them, who boarded your bus at Yellareddypet and one passenger bound for at Rangampet (found alighting) and another at Adivipadira i.e. ex.stages 17/16 to 13/23 and the above said tickets were already issued and accounted against stage No.12 in the up journey i.e. Sircilla-

Kamareddy hence confronted with passengers and obtained T.T.I.No.248/250976 and 977 of Rs.4.25 deno. which constitutes misconduct in terms of Reg.28 (xxiii) and (vi) (a) of APSRTC Employees (Conduct) Reg.1963.

Charge No.3: For having re-issued the tickets to the five (5) passengers i.e. batch/individuals even after collecting the requisite fare of Rs.4.25 each and three (3) of them are found traveling with ticket No.238/25/993, 994 and 996 of /Rs. 4.25 deno. from Yellareddy and bound for Garjampally out of above tickets 238/25/993, 994 were already issued and accounted against stage No.4 in up journey and ticket No.238/25/996 was issued and accounted at stage No.12 in up journey i.e. Sircilla to Kamareddy and you have also re-issued the tickets bearing No.240/250900 and 250903 to the remaining 2 passengers which were already issued and accounted at stage No.12 in the up journey i.e. Sircilla-Kamareddy and out of 2 passengers, one is bound for Garjapally and another is for Adivipadira ex.stages 17/16 to 12 and 13/12 hence confronted you and with passengers and obtained TPT.No.240/250 978 to 982 of Rs.4.25 and confiscated your Sr.No.A1/9401766 and issued the fresh SR.No.A1/3311317 which constitutes misconduct in terms of Reg.28 (xxxiii) and (vi)(a) of APSRTC Employees (Conduct) Reg.1963.

Charge No.4: For having to take the fresh SR which was opened by TTIs and had been asked to take it by the TTIs with the support of unruly and unwarranted behaviour of traveling public and villagers and thus caused an hindrance in serving the charge memo and in confiscating the SR and to complete their legitimate formalities at the point of check itself, which constitutes misconduct in terms of Reg.28(viii) (xxx) of APSRTC Employees (Conduct) Reg.1963.”

The petitioner submitted his explanation to the above charge sheet. Having not satisfied with the explanation, Enquiry Officer was appointed. The Enquiry Officer conducted enquiry and submitted his report. Based on the Enquiry Officer's report, the disciplinary authority issued a show cause notice to the petitioner. The

petitioner submitted his explanation. The disciplinary authority based on the Enquiry Officer's report and considering the explanation of the petitioner passed removal order dated 2.3.1993 and removed the petitioner from service. The petitioner preferred appeal and revision and the same were rejected on 11.9.1995 and 10.5.1996 respectively. Thereafter, the petitioner raised I.D.No.2 of 1997 before the Industrial Tribunal-cum-Labour Court, Godavarikhani. The Labour Court, having considered the evidence on record before it, dismissed the petition. Against which the present writ petition is came to be filed.

Sri Y.Ashok Raj, counsel appearing for the petitioner would contend that when the petitioner was conducting service bus on 5.4.1993, a check was exercised by T.T.I. at stage No.13/12 and found certain cash and ticket irregularities and he was issued with a charge memo. Learned counsel would further contend that Travelling Ticket Inspector has not followed the circular instructions of the Corporation while conducting check and the Travelling Ticket Inspector conducted the check in an arbitrary manner only to frame charge of misconduct for statistical purpose and the Travelling Ticket Inspector has not checked the bus cash and

obtained passengers statements to their dictates. Without considering the explanation of the petitioner to the charge memo, the Enquiry Officer conducted enquiry without giving opportunity to the petitioner. The Enquiry Officer, contrary to the evidence available on record, while brushing aside the statement of the petitioner held that the charges are proved without there being any legal evidence in support of the Enquiry Officer's report. The disciplinary authority, based on the Enquiry Officer's report, which is not based on any legal evidence and without independent application of mind, came to the conclusion that the charges are proved and passed the removal order. The appellate authority also did not consider the appeal in its proper perspective and rejected the same. The Labour Court also did not consider properly the Enquiry Officer's report which is not based on any legal evidence. The Labour Court having considered the evidence before it, marked Exs.M.1 to M.23. The Labour Court has not addressed itself to the issue of validity of enquiry and failed to exercise its power under section 11 (A) of the I.D. Act and no reasons were given in holding that the removal of the petitioner from service is proportionate to the charges. Learned counsel would further submit that the petitioner has put in about

10 years of service and he never involved in cash and ticket irregularities prior to the alleged present misconduct and, hence, removal of the petitioner from service is disproportionate to the misconduct.

Sri A.Ravi Babu, standing counsel appearing for 2nd respondent corporation would contend that the petitioner has committed serious misconduct of cash and ticket irregularities, for which enquiry was conducted, opportunity was given to the petitioner in the enquiry and the Enquiry Officer submitted his report holding that the charges are proved. The disciplinary authority having considered the Enquiry Officer's report passed orders removing the petitioner from service and the punishment is proportionate to the proved charges and there is no perversity in the order of the Labour Court.

In the facts and circumstances of the case and in considered view of this Court, the petitioner was not given proper opportunity before the Enquiry Officer to prove that the Travelling Ticket Inspectors exercised check contrary to the circular instructions of the Corporation which are binding on them and they have not checked the bus cash and got obtained the statements of the passengers to their dictates. The report of the Enquiry Officer holding that the charges proved are

not based on any legal evidence. The Labour Court has not addressed itself to the issue of validity of enquiry and it has failed to exercise power under Section 11(A) of the I.D. Act and no reasons were given in holding that the removal of the petitioner from service is proportionate to the charges. Hence, this Court finds that the award of the Labour Court is perverse.

Therefore, the Award of the Labour Court passed in I.D.No.2 of 1997 dated 6.9.2000 and the removal order are set aside. This Court finds that in proving the charges against the petitioner, the procedure followed is irregular. In view of the fact that the petitioner has put in 10 years of unblemished record, this Court feels that to meet the ends of justice, the respondents are directed to reinstate the petitioner into service with continuity of service but without attendant benefits and back wages. The order of the Labour Court is modified accordingly.

The Writ Petition is partly allowed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M. GANGA RAO

Date: 12/07/2018

lkv

