

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.13375 OF 2006

ORDER:

1. This writ petition is filed by the petitioner seeking to issue a writ of Certiorari calling for the records relating to and connected with I.D.No.186 of 2003 on the file of the Labour Court II, Hyderabad, and to quash the award passed therein on 2.11.2005, and consequently, to direct the respondent-Corporation to reinstate the petitioner into service with continuity of service and all other attendant benefits.

2. Heard Sri G. Vidyasagar, learned Counsel for the petitioner and Sri V.T.M. Prasad, learned Standing Counsel for the respondent-Corporation.

3. It is the case of the petitioner that he was appointed as Conductor in the respondent-Corporation on 8.2.1991 and thereafter, his services were also regularized. While the petitioner was conducting the bus on 16.9.2002, the checking officials of the respondent-Corporation conducted check and alleged that the petitioner indulged in cash and ticket irregularities. On the basis of the report of the checking officials, the respondent-Corporation issued a charge memo on 27.9.2002, for which the petitioner submitted his explanation. Being not satisfied with the said

explanation, enquiry was initiated and after completion of the enquiry and on the basis of the enquiry report, the respondent-Corporation removed the petitioner from service, against which the appeal and review preferred by the petitioner were rejected and hence, the petitioner filed I.D.No.186 of 2003 before the Labour Court under Section 2-A (2) of the I.D. Act, and the Labour Court vide order dated 2.11.2005 dismissed the I.D. Challenging the same, the present writ petition is filed.

4. The learned Counsel for the petitioner contended that at the time of checking, there were 21 passengers in the bus and all of them were found with tickets and out of 21 passengers, one passenger boarded the bus at stage No.15 and took the disputed ticket upto stage No.12 and later, he extended his journey from stage No.12 to stage No.9 and a ticket of Rs.5/- was issued to the said passenger, and at the time of checking, the passenger gave two tickets to the checking officials, but the checking officials ignored the valid ticket and picked up the expiry ticket and framed the charge. He further contended that the disciplinary authority as well as the appellate authority failed to consider the explanation given by the petitioner while considering the report of the enquiry officer and that the Labour Court also failed to appreciate the evidence on record in a proper perspective.

5. On the other hand, the learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority had imposed the punishment of removal only for the proven misconduct in the enquiry and that Labour Court has rightly declined to interfere with the punishment imposed by the disciplinary authority, and therefore, the order passed by the Labour does not warrant any interference.

6. This Court has considered the submissions made by the parties and perused the material available on record. The petitioner has not pointed out any illegality in the award passed by the Labour Court. The Labour Court in its wisdom declined to exercise its power under Section 11-A of the Industrial Disputes Act. The Labour Court on the other hand held as under:

“Here in this case out of 21 passengers one invalid ticket is given to one passenger even after accounting the TPT ticket the passengers are only 21. Therefore, it is crystal and clear from the entries in the S.R. that the disputed ticket is reissued to the passenger. Therefore, the finding of enquiry officer is valid.

Coming to the punishment, the respondents’ contention is that where misappropriation is involved the department will lose the confidence on the worker. Therefore, dismissal of such worker is proper. The respondent relied on decision 2004 III LLJ page 1078, in which it is held that the quantum of amount involved in the misappropriation is not the point; misappropriation is the primary factor for awarding punishment. Loss of confidence, which is the primary factor, has to be taken into consideration.

When a person is found guilty of misappropriation; there is nothing wrong in the Corporation losing confidence or faith in such a person, and awarding a punishment of dismissal is proper.

In view of the above referred judgment, it is not proper to interfere in the dismissal order passed where misappropriation charge is proved. Here, in this case, the petitioner misappropriated the amount of Rs.4/- by reissuing sold ticket. Therefore, there is no reason to interfere in the punishment awarded by the respondent where respondent loose his confidence or faith on the petitioner.”

In view of the above findings recorded by the Labour Court, this Court is of the view that the Labour Court has appreciated the evidence in a proper perspective and passed the award impugned. Therefore, this Court is not inclined to interfere with the award impugned.

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

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 10th September, 2018.
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10/09/2018

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