

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.3352 OF 2002

ORDER:

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with I.D.No.213 of 2000, and to quash the award passed therein on 25.6.2001, and consequently, to direct the 2nd respondent-Corporation to reinstate the petitioner into service with all consequential benefits including full back wages and all other attendant benefits.

2. Heard Sri B.G. Ravindra Reddy, learned Counsel for the petitioner and Sri N. Vasudeva Reddy, learned Standing Counsel for the respondent-Corporation.

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

The petitioner was appointed as a conductor in the year 1992 on daily wage basis and thereafter, he was appointed as Temporary conductor. While he was working as such, on 21.10.1997 checking officials checked the bus and found that the petitioner failed to issue tickets. A charge memo was issued to the petitioner, for which he gave his explanation and thereafter, the respondent-Corporation suspended him and issued a charge sheet against him on 25.10.1997. Thereafter, in spite of service of enquiry notices on the petitioner, he did not appear before the enquiry officer and hence, an ex parte order was passed holding that the charges are held proved.

Thereafter, the disciplinary authority issued a show cause notice of removal for which the petitioner failed to submit any explanation and thereby, the disciplinary authority passed the order of removal. Challenging the same, the petitioner filed I.D. impugned herein and the learned Tribunal dismissed the said I.D. Aggrieved by the same, the present writ petition has been filed.

4. The learned Counsel for the petitioner contends that while the petitioner was discharging duties as conductor, two passengers boarded the bus and therefrom, even before the bus reaching one stage, the checking officials intercepted the vehicle between stage Nos.6 and 7, and found two passengers travelling without tickets. He further contends that before the bus reaching stage No.7, he could not have been found fault because he had time and he can issue tickets to the ticketless passengers till the bus reaches stage No.7, and therefore, the misconduct of non-issuance of tickets as alleged against the petitioner is arbitrary and illegal, but the learned Tribunal without appreciating the said fact has erroneously dismissed the O.A.

5. Further, the learned Counsel for the petitioner contends that the award passed by the Tribunal is perverse and is not based on the record and the learned Tribunal has not considered the material on record in a proper perspective. He also contends that the

punishment imposed by the disciplinary authority is very disproportionate to the misconduct alleged to have been proved against the petitioner.

6. The learned Standing Counsel for the respondent-Corporation contends that earlier, the petitioner committed cash and ticket irregularities on two occasions, for which, his increment was deferred twice and he was also censured once for unauthorized absence. He further contends that the domestic enquiry was conducted in accordance with the procedure and following the principles of natural justice and that the punishment imposed on the petitioner is proportionate to the misconduct proved. He further contends that the Tribunal has considered all the aspects and passed the award and therefore, the award impugned does not warrant any interference.

7. This Court has considered the rival submissions made by the parties and perused the material available on record. The learned Counsel for the petitioner has drawn the attention of this Court to the articles of charge and contended that the first charge i.e., for having failed to complete the ticket issues within one fare stage, is totally incorrect, and even before the bus reaching stage No.7, checking officials checked the bus. But the fact remains that as per the 3rd article of charge, the petitioner had closed the SR upto Stage

No.7 before the bus reaching stage No.7. The allegations in all the three charges have to be read as a whole. On perusal of the totality of the allegations, this Court is of the view that non-issuance of tickets to the passengers and closing of SR before the bus reaching stage No.7 is nothing but a misconduct and that the disciplinary authority has rightly imposed the punishment of removal based upon the proven misconduct in the departmental enquiry, and the Labour Court has also rightly dismissed the I.D. There are no merits in this writ petition.

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



JUSTICE ABHINAND KUMAR SHAVILI

Dated: 23rd August, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.3352 OF 2002



23/08/2018

Nn.