

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION NO.10594 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 the award dated 13.9.2001 passed in I.D.No.221 of 1999 by the 1<sup>st</sup> respondent, and to quash the same. A consequential direction was also sought to grant the relief of reinstatement of the 1<sup>st</sup> petitioner with full back wages and all other attendant benefits.

2. Heard Sri A.K. Jayaprakash Rao, learned Counsel for the petitioners and Sri P. Durga Prasad, learned Standing Counsel for APSRTC.

3. It has been submitted by the learned Counsel for the petitioners that the deceased 1<sup>st</sup> petitioner was appointed as conductor on 17.11.1979 and subsequently, he was promoted as Assistant Depot Clerk during February, 1996 and while he was working as such, charge sheet was issued to him on 15.10.1998 on the allegation that he left the bus pass section of Governorpet-I Depot on 3.9.1998 without locking the almyrah containing the bus pass ticket stock, on account of which, one B.P. Rangarao, conductor handled the work of General Bus ticket blocks to the bus pass counters negligently resulting in non-remittance of sale

proceeds of bus pass tickets of Rs.210/- denomination, worth Rs.10,500/- at the depot General, and that total amount of Rs.10,500/- was misappropriated by K.N. Rao, another conductor, who received the said blocks. It has been submitted that regular enquiry was conducted against three persons including the 1<sup>st</sup> petitioner and the enquiry Officer held that K. N. Rao and B.P. Ranga Rao had misappropriated the amounts by stealing bus pass ticket stock. It has been further submitted that the deceased 1<sup>st</sup> petitioner had not committed any mistake and due to good faith, he did not lock the almyrah, but the same led to misappropriation committed by the above two conductors, and that the disciplinary authority imposed major penalty of removal from service on the deceased 1<sup>st</sup> petitioner vide order dated 29.4.1999 and the said punishment is very disproportionate, and the deceased 1<sup>st</sup> petitioner challenged the same before the appellate authority and thereafter, preferred I.D.No.221 of 1999 before the 1<sup>st</sup> respondent-Labour Court, and the 1<sup>st</sup> respondent vide orders dated 13.9.2001 dismissed the I.D. preferred by the deceased 1<sup>st</sup> petitioner. Challenging the same, the present writ petition has been filed.

4. During pendency of this writ petition, the writ petitioner died on 5.9.2006 and his wife was brought on record as his legal representative.

5. The learned Standing Counsel for the respondent-corporation contended that the disciplinary authority after conducting regular enquiry and after receiving the report of the enquiry officer, rightly imposed the punishment of removal, and the said punishment was confirmed by the appellate authority as well as the Labour Court, and therefore, no interference is called for.

6. The learned Counsel for the petitioners contended that two conductors were held responsible for misappropriation of the amounts of the respondent-Corporation, and one of them has been reinstated. This contention has not been disputed by the learned Standing Counsel.

7. I have considered the submissions made by the parties. The 1<sup>st</sup> petitioner expired during the pendency of this writ petition. There was no material on record to show that during his life time, the deceased 1<sup>st</sup> petitioner has indulged in any illegal acts, except the negligence shown in the instant case, which led to misappropriation of the amounts of the respondent-Corporation. Further, it is not in dispute that one of the conductors, who was held responsible for the said misappropriation, was reinstated into service.

8. In the above circumstances, this Court is of the view that punishment of removal imposed on the deceased 1<sup>st</sup> petitioner for the proven negligence is very harsh and disproportionate and

therefore, the order of removal dated 29.4.1999 is set aside. Since the 1<sup>st</sup> petitioner died, the question of his reinstatement would not arise. However, the 2<sup>nd</sup> petitioner, who is the legal representative of the deceased 1<sup>st</sup> petitioner, is entitled to all the terminal benefits of the deceased employee. The services of the deceased employee from the date of removal and till the date of his death, shall be counted for the purpose of pensionary benefits, without any back wages.

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



(ABHINAND KUMAR SHAVILI, J)

Dated: 24<sup>th</sup> July, 2018

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**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**



**Dated: 24.7.2018**

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