

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Appeal No.1590 of 2017

J U D G M E N T :

(Per the Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present appeal, the appellant has assailed the order dated 12.7.2017 passed in W.P.No. 4641 of 2009 by the learned Single Judge, whereby the said writ petition has been dismissed.

2. The case of the respondents is that on 19.1.2003, the bus No. AP10Z-8788 of Badvel depot while proceeding from Badvel to Bangalore night service was checked by the TTIs of VES-Cuddapah near Chinnamandem Village of Cuddapah District. In Total, 34 passengers were traveling in the bus at that time and among them three passengers were alighting from the bus at Chinnamandem Village and they were not in possession of valid tickets. The TTIs enquired the ticketless passengers and on enquiry the TTIs came to know that the three passengers boarded the bus at Rayachoty for going to Chinnamandem and they have paid Rs. 10/- each to one of the double drivers. The TTIs issued charge memos to both the drivers and the Divisional Manager/ Badvel placed both the drivers under suspension. It is the further case of the respondents that in the absence of clear guidelines/instructions, the TTIs were subjected to inconvenience to fix up the responsibility and to frame the cases,

whenever cases of Cash and Ticket irregularities were detected in case of services provided with two drivers and TIMs.

3. Accordingly, vide Circular No. 03/159 (19)/2004-OPDI dated 26.12.2004, all the Depot Managers, wherein the TIMs services operating with double drivers on long distance routes were ensured making an endorsement in the MTD-141 cards informing that the driver who is on steering during the journey, is responsible for issuing tickets thorough TIMs and responsible for any case of ticket irregularities.

4. The admitted case is that the petitioner was on steering from Hayatnagar to Humnabad and thereafter, the second driver taken the bus to drive. It is also an admitted case that three persons mentioned above boarded from Humnabad were going to Tuljapur and when they were on the way, the said bus was checked and found three passengers traveling without tickets. It is also an admitted fact that before 2003, there were no clear guidelines as to which of the two drivers would be responsible if such type of irregularities found but the practice was that the driver who is on the steering will have to issue tickets and if found any irregularities, he shall be responsible for any lapses.

5. Admittedly, in the present case, the appellant was not on steering and after Humnabad he became the second driver. Therefore, the appellant was not responsible for the irregularities, if any, found.

6. It is not in dispute that there is no action taken against the driver, who was on steering, however, taken action only against the appellant herein.

7. In view of the above, we are of the considered opinion that the appellant being second driver from Humnabad is not responsible for any lapses or irregularities found by the respondents.

8. Consequently, we hereby set aside the award dated 18.11.2008 passed by the first respondent in I.D. No. 46 of 2005 and order dt. 12.7.2017 passed in W.P. No. 4641 of 2009. The respondents are directed to reinstate the appellant with continuity of service but without back wages. However, we make it clear that the period of termination shall be counted as on duty for the purpose of retirement benefits and pension etc. We further make it clear that the appellant shall be entitled for notional increments.

9. Accordingly, the Writ Appeal is allowed. No costs. As a sequel there to, miscellaneous petitions, if any, pending in this Writ Appeal shall stand closed.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

Date: 08th March, 2018

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