

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Appeal No.922 of 2019

Date:18.12.2019

Between:

Telangana Road Transport Corporation,
Rep.by its Joint Managing Director,
Musheerabad, Hyderabad
And three others

..Appellants

And

M.Ramesh

..Respondent

Counsel for the Appellants : Sri B. Mayur Reddy,
Standing Counsel

Counsel for the respondent : Sri P. Sridhar Rao

The Court made the following:

JUDGMENT: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

Aggrieved by the order of a learned Single Judge passed in W.P.No.21412 of 2015, dated 15.11.2019, whereby the learned Single Judge while permitting the respondent herein to prefer revision before the revisional authority against the punishment of removal, further directed the revisional authority to consider the case of the respondent without referring to the issue of limitation, duly taking into account the fact that the punishment of removal imposed on the petitioner is shockingly disproportionate to the charges levelled, as the alleged incident had occurred on the fourth day from the date of initial appointment of petitioner. Therefore, a lenient view can be taken by the revisional authority and any other appropriate punishment commensurate with the charges, can be imposed on the petitioner, the appellant-Corporation has filed the present writ appeal.

2. The brief facts of the case are that the sole respondent herein was appointed as a Conductor in the appellant-Corporation in the month of January, 2010. While on duty, on 25.01.2010, a surprise check was conducted on the bus which was enroute from Hanamkonda to Mangapet, wherein certain cash and ticket irregularities were noticed by the checking squad. Accordingly, a charge memo was issued to the respondent for having collected Rs.78/- from a passenger and issuing tickets of Rs.40/-, Rs.30/- and Rs.8/-, totalling Rs.78/-, out of which, the ticket of Rs.30/- was issued upto a particular

stage, which clearly showed that ticket of Rs.30/- was a used ticket, and constituted misconduct. To the said charge memo, the respondent had offered his explanation denying the charges and stating that he was only on the 4th day of his job and earlier, two passengers boarded the bus and tickets were issued to their destination, but on finding that the fare was high, they got down immediately. Thus, the two tickets of Rs.30/- each only were with the respondent. He has used one of the tickets inadvertently. Hence, there is no deliberate or ill-intention to defraud the Corporation. Basing on the report of the Enquiry Officer, dated 05.06.2010, the Corporation issued the show cause notice for termination from service, to which the respondent had submitted his explanation. Without considering the explanation, the respondent was terminated from the service. Assailing the termination, the respondent preferred an appeal, but the appeal was also mechanically dismissed without considering the facts and circumstances. Therefore, left with no other alternative, the petitioner had challenged the termination by way of writ petition before this Court.

3. The learned Single Judge vide order, dated 15.11.2019, has disposed of the writ petition setting aside the order of termination, with the following directions:

This Court, having considered the rival submissions made by the parties, is of the considered view that this writ petition can be disposed of directing the petitioner to prefer revision before the revisional authority within two weeks from the date of receipt of a copy of this order, and upon such revision being filed, the revisional authority shall entertain the same without raising the issue of limitation

and consider the case of the petitioner afresh by duly taking into account the fact that the punishment of removal imposed on the petitioner is shockingly disproportionate to the charges levelled, as the alleged incident had occurred on the fourth day from the date of initial appointment of petitioner. Therefore, a lenient view can be taken by the revisional authority and any other appropriate punishment commensurate with the charges, can be imposed on the petitioner.

Aggrieved by this portion of the order, the Corporation is before this Court by way of the present Writ Appeal.

4. Heard Sri B.Mayur Reddy, the learned Standing Counsel, for the appellant-Corporation, and Sri P.Sridhar Rao, the learned counsel for the respondent-employee.

5. The learned Standing Counsel appearing for the Corporation has vehemently argued that even in cases where the conductor had misappropriated Rs.2/-, the Hon'ble Supreme Court did not take a lenient view of the matter and has upheld the orders of termination of the employee. Hence, the direction issued by the learned Single Judge to the respondent to prefer a revision and on such revision been preferred, the further direction to the revision authority to take a lenient view and pass appropriate order commensurate with the charges levelled against the employee, cannot be sustained. The learned Counsel has, thus, strenuously argued that the same will set a bad precedent for other conductors to follow suit.

6. Per contra, the learned Counsel appearing for the respondent has argued that the punishment given to the employee was grossly disproportionate to the charges levelled

against him. As a matter of fact, the petitioner was only on the fourth day of his service, that too without being imparted any proper training. Moreover, it was not a case where the employer has misappropriated Rs.30/-. But it was a case of wrong issuance of a ticket. The authorities without making any proper enquiry, or without appreciating the explanation given by the respondent, in proper perspective, had dismissed him from the service. Hence, the order of the learned Single Judge in directing the respondent to prefer a revision, and further directing the revisional authority to take a lenient view, and to impose any other appropriate punishment commensurate with the charges, is perfectly justified and the same does not call for any interference.

7. Having heard both the Counsels and given an anxious thought to the facts and circumstances of the case, we are of the opinion that the order of the learned Single Judge does not call for any interference for the following reasons:

- i) It is not the case where the Corporation has found that the employee has misappropriated the amounts of the Corporation, but a case where an used ticket of Rs.30/- was re-issued.
- ii) In number of cases this Court as well as the Supreme Court have held that the punishment imposed on the employee should commensurate with the charges levelled against him. The punishment should not be disproportionate to the same which will shock the conscience of the Court.

iii) In *Om Kumar v. Union of India*¹, the Hon'ble Supreme Court held at paragraph No.71 as under:

...it must be held that where an administrative decision relating to punishment in disciplinary cases is questioned as "arbitrary" under Article 14, the court is confined to Wednesbury principles as a secondary reviewing authority. The court will not apply proportionality as a primary reviewing court because no issue of fundamental freedoms nor of discrimination under Article 14 applies in such a context. The court while reviewing punishment and if it is satisfied that Wednesbury principles are violated, it has normally to remit the matter to the administrator for a fresh decision as to the quantum of punishment. Only in rare cases where there has been long delay in the time taken by the disciplinary proceedings and in the time taken in the courts, and such extreme or rare cases can the court substitute its own view as to the quantum of punishment.

In *B.C. Chaturvedi v. Union of India*², the Hon'ble Supreme Court at para 18 held as under:

.....The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.

In *U.P.S.RTC v. Mahesh Kumar Mishra*³, the Hon'ble Supreme Court observed as para 6 as under:

This case is clearly distinguishable on the ground that a number of passengers were allowed to travel without tickets and, therefore, the misconduct imputed to the employee was serious. This is not the case

¹ (2001) 2 SCC 386

² (1995) 6 SCC 749

³ (2000) 3 SCC 450

here as the respondent had issued tickets to all the passengers, who were found travelling in the bus, but the dispute was only with regard to the spot or place at which they had boarded the bus. To put it differently, the dispute was whether they had boarded the bus at "Zero Road" or at the "High Court". In these circumstances, the High Court was justified in interfering with the quantum of punishment.

- iv) In this particular case, the termination of the employee is grossly disproportionate to the charges levelled against him for wrongly issuing the ticket of Rs.30/-, who admittedly was on the fourth day of job without undergoing any training by the Corporation.

8. For the afore-mentioned reasons, we do not find any merit in the writ appeal. The same is accordingly dismissed.

9. Having regard to the peculiar facts and circumstances of the case, it is made clear that the present decision shall not be taken as laying down any principle of law shall not be treated as a binding precedent.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

18th December, 2019
smr