

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

TUESDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO: 12511 OF 2007

Between:

The Depot Manager, APSRTC, Kodad Depot, Nalgonda District.

...PETITIONER

AND

1. M. Narasaiah, S/o Lakshminarayana, c/o Srinagam Narsimha Rao, Church Compound, Besides Praja Cable Office, Opp:Konduru Pullaiah Rice Mill, Suryapet, Nalgonda District.
2. The Labour Court-III, Hyderabad represented by its, Presiding Officer.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction especially one in the nature of a writ of certiorari calling for the records relating to the impugned award dated 04-12-2006 made in I.D.No.34/2005, the Labour Court-III, Hyderabad published on 14-3-2007 in G.O.Rt.No.309, dated 08-2-2007 allowing the petition in part and directing the petitioners herein to reinstate the 1st respondent into service with continuity of service but without back wages and attendant benefits and quash the same as being bad, illegal, without jurisdiction and invalid.

WPMP. NO: 15588 OF 2007

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased order stay of execution of the award dated 04-12-2006 made in I.D.No.34/2005, Labour Court-III, Hyderabad, published on 14-3-2007 in G.O.Rt.No.309 dt.8-2-2007 pending disposal of the above Writ Petition and pass such other order or orders in the interest of justice.

Counsel for the Petitioner: SRI A. RAVI BABU(SC FOR TSRTC)

Counsel for Respondent No. 1:NONE APPEARED

Counsel for Respondent No. 2: GP FOR LABOUR

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.12511 OF 2007

ORDER:

Heard learned counsel for the petitioner – TSRTC and learned Government Pleader for respondent No.2.

2. Respondent No.1- workman was working as Conductor. He was assigned service bus No.5936 on route Kodad – Khammam. On 14.09.2003, a check was exercised at Stage No.4 i.e., Nelakondapalli and certain cash and ticket irregularities were found against respondent No.1. It was noticed that respondent No.1 collected Rs.6/- from a lady passenger, who boarded at Kodad, and issued an unconcerned ticket. It was further alleged that respondent No.1 dropped some tickets from cash bag on observing the checking staff. Therefore, five charges were framed against respondent No.1. The main charge was on the allegation of issuing unconcerned ticket to the passenger and thereby misappropriating an amount of Rs.6/- collected from the said passenger. The disciplinary action resulted in removal from service by order dated 17.06.2004. Respondent No.1 raised Industrial Dispute in I.D.No.34 of 2005 before the Labour Court – III, Hyderabad. The Labour Court went into reassessment of the evidence on record. It placed heavy reliance on the stand of respondent No.1 that immediately after conducting check, the signature of respondent No.1 was not obtained and charge memo was not served on the spot. However, from a reading of the award, dated 04.12.2006, it is seen that the Labour Court accepted the factum of not reflecting ticket No.375/690886 in

SR. The Labour Court assumed itself that not reflecting the said ticket number in SR as a mistake. The factum of not mentioning the ticket number in SR assumes significance having regard to the nature of allegation levelled against respondent No.1. According to the petitioner - Corporation, respondent No.1 has given Ticket No.375/690886, which was an unconcerned ticket and was not supplied to the petitioner on 14.09.2003.

3. It was specifically asserted by the petitioner - Corporation during the domestic enquiry and before the Labour Court that respondent No.1 was carrying certain unconcerned tickets in his Cash bag and on seeing the Inspection Team, he dropped those tickets on the floor and those tickets were seized by checking officials. They were all tickets sold on 14.09.2003. The Labour Court held that workman issued valid ticket ending with 894, workman has not issued unconcerned ticket. Labour Court further observed that the allegation that workman has thrown some tickets on the floor was not proved.

4. The said finding of the Labour Court is apparently contrary to the material on record. While holding that the charges are not proved, the Labour Court accepted the factum that respondent No.1 has committed mistake in not entering the ticket number in the SR. Further, ticket No.375/690886 was recovered from the passenger. Therefore, there is any amount of material to support the version of the petitioner - Corporation that the workman issued unconcerned ticket to the passenger and thereby proving the allegation of cash and ticket irregularity. The Labour Court drifted from the main aspect and not assessed evidence in proper

perspective and went on to hold in favour of the workman by dealing with incidental issues, such as not having authentic signature on the deposition of the driver and certain other procedural infirmities dealing with other charges. Having found that workman was not guilty of the charges, Labour Court proceeds to hold that the punishment imposed against respondent No.1 on the alleged mistake is disproportionate and directed the petitioner - Corporation to reinstate respondent No.1 into service with continuity of service, but without back wages and attendant benefits. In other words, Labour Court recorded contradictory findings. Therefore, this Court is of the considered opinion that having held that respondent No.1 committed mistake in not entering the ticket number in the SR, which ticket was actually found on the floor of the bus, and an unconcerned ticket was recovered from a lady passenger, and the petitioner - Corporation has proved the delinquency of the employee, the Labour Court ought not to have found fault with the respondent No.1 in imposing punishment of removal.

5. However, though the Court is not convinced with the findings recorded by the Labour Court, having regard to the fact that award was passed on 04.12.2006, this Court was not inclined to grant stay on reinstatement of the workman, at the stage of admission and the workman was reinstated into service, this Court is not inclined to set aside the orders of the Labour Court.

6. The writ petition is accordingly dismissed. There shall be no order as to costs. Pending Miscellaneous Petitions, if any, shall stand closed.

SD/-CH.VENKATESWAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Presiding Officer, Labour Court-III, Hyderabad (with records, if any)
2. One CC to Sri A Ravi Babu, SC for TSRTC [OPUC]
3. Two CCs to GP for Labour, High Court for the State of Telangana (OUT)
4. Two CD Copies

MBC



HIGH COURT

DATED: 10/03/2020



ORDER

WP.No.12511 of 2007

DISMISSING THE WRIT PETITION

WITHOUT COSTS

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RMA
Dt 29/5/2020,