IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 2ND DAY OF AUGUST, 2023

PRESENT

THE HON'BLE MR JUSTICE S.R. KRISHNA KUMAR

AND

THE HON'BLE MR JUSTICE G BASAVARAJA

WRIT APPEAL NO. 100246 OF 2023 (L-KSRTC)

BETWEEN:

THE MANAGEMENT OF NWKRTC,
HAVERI DIVISION, REPRESENTED BY
CENTRAL OFFICE, GOKUL ROAD,
HUBLI 580030,
REPRESENTED BY ITS CHIEF LAW OFFICER,
TALUK: HUBLI, DIST.-DHARWAD.

…APPELLANT

(BY SMT. VEENA HEGDE, ADVOCATE)

AND:

SHRI MAHANTAYYA
S/O. SHIVAMURTAYYA KAMBLIMATH
AGED ABOUT 60 YEARS, OCC. NILL,
R/O: AT POST,
GONDI, TQ. AND DIST.-HAVERI

…RESPONDENT

(BY SRI RAVI HEDGE, ADVOCATE)

ROHAN HADIMANI T

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Location: HIGHCOURT OF KARNATAKA-DHARWAD BENCH
Date: 2023.08.08 10:36:26 +0530

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF KARNATAKA HIGH COURT ACT, 1961, PRAYING TO THIS HON'BLE COURT TO, SET-ASIDE THE ORDER DATED 10/11/2022 PASSED BY THE LEARNED SINGLE JUDGE IN W.P.NO.109614/2016 AND DISMISS THE WRIT PETITION WITH COST IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, **S.R. KRISHNA KUMAR, J.,** DELIVERED THE FOLLOWING:

JUDGMENT

This intra Court appeal by the Management of NWKRTC is directed against the impugned order dated 10.11.2022 passed in Writ Petition No.109614/2016, whereby the said petition filed by the respondent-workmen was allowed by the learned Single Judge of this Court.

2. Heard learned counsel Smt. Veena Hegde appearing for NWKRTC and learned counsel Sri Ravi Hegde, appearing for respondent-workmen.

3. The material on record discloses that aggrieved by the Judgment and Decree dated 17.03.2016 passed by the Presiding Officer, Labour Court, Hubballi (for short, 'the Labour Court'), whereby the order of dismissal dated 30.09.2013 passed by the appellant dismissing the respondent from service was confirmed by the Labour Court which dismissed the claim petition filed by the respondent-workmen, the respondent preferred the aforesaid writ petition which was contested by the appellant-Management who was arrayed as respondent in the said writ petition. After hearing the parties, the learned Single Judge came to the conclusion that the enquiry leading to the

dismissal of the workmen from service was vitiated on account of non providing of an opportunity to the respondent-workmen, it would vitiate the said enquiry. The learned Single Judge also noted that Regulation 23(18) of the Karnataka State Road Transport Corporation Servants (Conduct and Discipline) Regulations, 1971 (for short, 'the Regulations') had been violated and on this ground also, the learned Single Judge was of the opinion that the order of dismissal and the order of the Labour Court deserve to be set aside. Further, taking into account that the respondent-workmen had been dismissed in the year 2013 and the writ petition was filed in 2016 and which came up for hearing on 10.11.2022, the learned Single Judge was of the view that remitting the matter back to the Enquiry Officer or to the Labour Court after long lapse of time would be a futile exercise and in the facts and circumstances of the case since the past history and its details had not been established by the appellant-Management by producing necessary materials in this regard, the quantum of punishment was reduced from the order of dismissal by directing reinstatement without monetary benefits and without back wages and also by withholding two increments with cumulative effects. Aggrieved

by the impugned order passed by the learned Single Judge, the appellant-Management is before this Court by way of the present appeal.

4. In addition to reiterating various contentions urged in the appeal and the referring to the material on record, the learned counsel for the appellant submits that once the Labour Court came to the conclusion that the Domestic Enquiry held against the workmen is fair and proper, the question of interfering with the findings of the Enquiry Officer was not warranted in the facts of the instant case. It is therefore contended that the learned Single Judge has not correctly or properly exercised his jurisdiction under Article 226 or 227 of the Constitution of India by setting aside the order of the Management as well as the Labour Court and the impugned order passed by the learned Single Judge deserves to be set aside.

5. *Per Contra*, learned counsel for the respondent-workmen would support the impugned order passed by the learned Single Judge and submits that there is no merit in the appeal and the same is liable to be dismissed.

6. A perusal of the impugned order passed by the learned Single Judge will indicate that apart from the fact that the enquiry conducted is found to be violative of principles of natural justice and contrary to Regulation 23(18) of the Regulations, the learned Single Judge also took into account that the respondent had been dismissed from the service in the year 2013 itself and since alleged past history of 19 cases said to have been filed against the respondent-workmen had not been established by producing any material except the same being referred to in the order of dismissal, the fact that the charges against the respondent-workmen in those 19 cases had been proved against him is also not forthcoming from the material on record. It is also relevant to state that having regard to the nature of charges against the respondent-workmen to the effect that he had issued tickets in a sum of Rs.292/- and had not collected the necessary fare, thereby not amounting to pilferage on the part of the respondent-workmen, the learned Single Judge was fully justified in reducing the quantum of punishment from the order of dismissal by directing imposition of penalty of withholding two increments

cumulatively along with refusing back wages and without monetary benefits.

7. Upon re-appreciation and re-evaluation and re-consideration of the entire material on record, we are of the view that the impugned order passed by the learned Single Judge does not suffers from any illegality or infirmity warranting interference by this Court in the preset appeal.

Appeal is accordingly dismissed.

Sd/-
JUDGE

Sd/-
JUDGE

ckk