HC-KAR
NC: 2026:KHC:61623
WP No. 11946 of 2022
CNR: KAHC010267712022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 11946 OF 2022 (L-KSRTC)

BETWEEN:

CHIEF TRAFFIC MANAGER
BMTC, CENTRAL DIVISION
K H ROAD, SHANTHINAGARA
BENGALURU 560027
REP. BY ITS CHEF LAW OFFICER
BMTC CENTRAL OFFICE K H ROAD
SHANTHINAGARA
BENGALURU 560027.

...PETITIONER

(BY SRI. HAREESH BHANDARY T., ADVOCATE)

AND:

SRI. MALLAPPA MAKKALAGERI
S/O MAHADEVA
AGED ABOUT 49 YEARS
DRIVER CUM CONDUCTOR BADGE NO 2531
BMTC DEPOT NO 22
BANGALORE CENTRAL DIVISION
REP. BY GENERAL SECRETARY
KSRTC AND BMTC UNITED EMPLOYEES UNION
NO 23, 4TH MAIN ROAD, MATHIKERE EXTENSION
BENGALURU-560054.

...RESPONDENT

(BY SMT. SHIVANI SHETTY, K, ADVOCATE FOR
SRI. NANJUNDARADHYA B G., ADVOCATE)

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HAREKOPPA THIMMANNA GOWDA

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THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED: 05.10.2021, PASSED BY THE INDUSTRIAL TRIBUNAL, BANGALORE IN I.D.NO.304/2012, VIDE ANNEXURE-A AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

This writ petition is filed by the Bangalore Metropolitan Transport Corporation (for short, 'BMTC'), under Articles 226 and 227 of the Constitution of India, challenging the award dated 05.10.2021 passed by the Industrial Tribunal, Bengaluru (for short, 'the Tribunal'), in I.D. No.304/2012, vide Annexure-A, whereby the dispute raised by the first party – Workman was allowed and the punishment imposed by the employer, namely, the second party – BMTC, was set aside.

2. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

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3. The first party – Workman is working as a Driver-cum-Conductor in BMTC. While he was discharging his duties as a Conductor, on 31.07.2008, in Route No.250-NA, an allegation was made against him that he had failed to issue four tickets of Rs.5/- each to four passengers. Accordingly, a charge memo was issued to him. The first party – Workman submitted his explanation denying the charges levelled against him.

4. Thereafter, being dissatisfied by the explanation so rendered by the second party, an Enquiry Officer was appointed. Upon conducting the domestic enquiry, the Enquiry Officer submitted a report holding that the charges levelled against the first party – Workman were proved. The Disciplinary Authority, by order dated 02.02.2010, based on the report submitted by the Enquiry Officer, imposed the penalty of reduction of pay by two incremental stages with cumulative effect and further

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ordered that the suspension period be treated as not being on duty.

5. Being aggrieved by the said order, the first party – Workman raised an industrial dispute before the Tribunal in I.D. No.304/2012. By the impugned award at Annexure-A, the Tribunal allowed the dispute and set aside the order of punishment dated 02.02.2010. Aggrieved by the said award, the second party – BMTC has approached this Court by filing the present writ petition.

6. The learned counsel appearing for the second party – BMTC contended that, although the Tribunal had held that the domestic enquiry conducted by the second party was fair and proper, it proceeded to set aside the penalty on the ground that second party had failed to adduce any evidence on the merits of the case. He further contended that, once the domestic enquiry is held to be fair and proper, the Tribunal is required to consider the evidence adduced in the domestic enquiry proceedings and

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examine whether the findings recorded by the Enquiry Officer are perverse. According to him, the parties need not adduce any additional evidence in the present case. In support of his contention, he placed reliance on the judgment of the Hon'ble Apex Court in ***The Workmen of M/s. Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. v. The Management and Others*****,** reported in **(1973) 1 SCC 813.**

7. Per contra, the learned counsel appearing for the first party – Workman contended that the enquiry conducted by the Enquiry Officer was contrary to law and that no proper opportunity was afforded to the Workman to defend himself. He further contended that the Disciplinary Authority had also failed to properly appreciate the evidence adduced during the domestic enquiry and had erroneously imposed the penalty on the first party – Workman. He submitted that the Tribunal, upon examining the enquiry report, had rightly arrived at

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the conclusion that the findings recorded by the Enquiry Officer were perverse and, accordingly, allowed the dispute. Hence, he sought dismissal of the writ petition.

8. Heard the learned counsel for the parties and perused the records.

9. It is not in dispute that the first party – Workman was working as a Driver-cum-Conductor in BMTC. While he was discharging his duties as a Conductor, on 31.07.2008, on Route No.250-NA, an allegation was made against him that he had failed to issue four tickets of Rs.5/- each to the passengers. Accordingly, a charge memo dated 22.08.2008 was issued to him. The relevant charge is extracted below:

> *"ನೀವು ಬೋನ್‌ಮಿಲ್ ನಿಲ್ದಾಣದಿಂದ ಗುಡೇದಹಳ್ಳಿ ನಿಲ್ದಾಣಕ್ಕೆ ಪ್ರಯಾಣಿಸುತ್ತಿದ್ದ ಗುಂಪಿನ 4 ಜನ ಪ್ರಯಾಣಿಕರಿಂದ ತಲಾ ರೂ.5.೦೦ ರಂತೆ ಒಟ್ಟು 20.00 ಪ್ರಯಾಣದ ದರವಾಗಿ ಪಡೆದಿದ್ದರೂ ಅವರಿಗೆ ಚೀಟಿಗಳನ್ನು ವಿತರಿಸಿರಲಿಲ್ಲ."*

10. The first party – Workman submitted his explanation to the charge memo. As the Disciplinary

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Authority was not satisfied with the explanation offered by the first party – Workman, an Enquiry Officer was appointed to conduct a domestic enquiry. The Enquiry Officer conducted the enquiry and, based on the evidence adduced by the parties, submitted a report holding that the charges levelled against the first party – Workman were proved.

11. The Disciplinary Authority, by order dated 02.02.2010, imposed the penalty of reduction of pay by two incremental stages with cumulative effect and further ordered that the suspension period be treated as not being on duty. The said order was challenged by the first party – Workman by raising an industrial dispute before the Tribunal in I.D. No.304/2012.

12. Before the Tribunal, the first party – Workman filed a memo stating that he did not dispute the fairness of the domestic enquiry conducted by the second party – BMTC. Accordingly, the Tribunal held that the domestic

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enquiry conducted by the second party – BMTC was fair and proper.

13. The Apex Court, in the case of ***The Workmen of M/s. Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. (supra)***, has held that once the preliminary issue relating to the fairness and propriety of the domestic enquiry is decided in favour of the employer, the Tribunal can adjudicate the dispute on the basis of the evidence adduced by the parties before the Enquiry Officer and the materials available on record. In such circumstances, the parties are not required to adduce any additional evidence before the Tribunal unless the Tribunal is satisfied that the order of discharge or dismissal is not justified. The relevant paragraphs of the judgment are extracted below:

> *"36. We will first consider cases where an employer has held a proper and valid domestic enquiry before passing the order of punishment. Previously the Tribunal had no power to interfere with its finding of misconduct recorded in the domestic enquiry unless one or other infirmities*

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pointed out by this Court in Indian Iron & Steel Co. Ltd. case existed. The conduct of disciplinary proceedings and the punishment to be imposed were all considered to be a managerial function with which the Tribunal had no power to interfere unless the finding was perverse or the punishment was so harsh as to lead to an inference of victimisation of unfair labour practice. This position, in our view, has now been changed by Section 11-A. The words "in the course of the adjudication proceeding, the Tribunal is satisfied that the order of discharge or dismissal was not justified" clearly indicate that the Tribunal is now clothed with the power to reappraise the evidence in the domestic enquiry and satisfy itself whether the said evidence relied on by an employer establishes the misconduct alleged against a workman. What was originally a plausible conclusion that could be drawn by an employer from the evidence, has now given place to a satisfaction being arrived at by the Tribunal that the finding of misconduct is correct. The limitations imposed on the powers of the Tribunal by the decision in Indian Iron & Steel Co. Ltd. case, can no longer be invoked by an employer. The Tribunal is now at liberty to consider not only whether the finding of misconduct recorded by an employer is correct; but also to

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differ from the said finding if a proper case is made out. What was once largely in the realm of the satisfaction of the employer, has ceased to be so; and now it is the satisfaction of the Tribunal that finally decides the matter.

37. If there has been no enquiry held by the employer or if the enquiry is held to be defective, it is open to the employer even now to adduce evidence for the first time before the Tribunal justifying the order of discharge or dismissal. We are not inclined to accept the contention on behalf of the workmen that the right of the employer to adduce evidence before the Tribunal for the first time recognised by this Court in its various decisions, has been taken away. There is no indication in the section that the said right has been abrogated. If the intention of the legislature was to do away with such a right, which has been recognised over a long period of years, as will be noticed by the decisions referred to earlier, the section would have been differently worded. Admittedly, there are no express words to that effect, and there is no indication that the section has impliedly changed the law in that respect. Therefore, the position is that even now the employer is entitled to adduce evidence for the first time before the Tribunal even if he had held no

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enquiry or the enquiry held by him is found to be defective. Of course, an opportunity will have to be given to the workman to lead evidence contra. The stage at which the employer has to ask for such an opportunity, has been pointed out by this Court in Delhi Cloth and General Mills Co. Ltd. case. No doubt, this procedure may be time consuming, elaborate and cumbersome. As pointed out by this Court in the decision just referred to above, it is open to the Tribunal to deal with the validity of the domestic enquiry, if one has been held as a preliminary issue. If its finding on the subject is in favour of the management, then there will be no occasion for additional evidence being cited by the management. But if the finding on this issue is against the management, the Tribunal will have to give the employer an opportunity to cite additional evidence justifying his action. This right in the management to sustain its order by adducing independent evidence before the Tribunal, if no enquiry has been held or if the enquiry is held to be defective, has been given judicial recognition over a long period of years."

14. In the case on hand, the Tribunal has allowed the dispute on the ground that the second party – BMTC had not adduced any evidence on the merits of the case.

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Accordingly, it arrived at the conclusion that the penalty imposed by the second party – BMTC was liable to be set aside.

15. The aforesaid finding recorded by the Tribunal is contrary to the law laid down by the Apex Court in ***The Workmen of M/s. Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. (supra),*** as it is not necessary for the parties to adduce evidence in case the enquiry is held to be fair and proper, unless it is a case involving an order of discharge/dismissal wherein the Tribunal may direct the parties to adduce additional evidence. However, In the present case, the punishment imposed by the second party – BMTC is neither discharge nor dismissal of the first party – Workman from service. The penalty imposed is only that of reduction of pay by two incremental stages with cumulative effect. On this ground alone, the impugned award is liable to be set aside and the writ petition deserves to be allowed.

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16. Accordingly, the following order is passed:

(i) The writ petition is allowed.

(ii) The award dated 05.10.2021 passed by the Tribunal in I.D. No.304/2012, vide Annexure-A, is hereby set aside.

(iii) The matter is remitted back to the Tribunal for fresh consideration, keeping in view the principles laid down by the Apex Court in the judgment referred to supra and in accordance with law.

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(H.T. NARENDRA PRASAD)
JUDGE

CM
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