



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MAY, 2024

BEFORE

THE HON'BLE MS. JUSTICE JYOTI MULIMANI

WRIT PETITION NO. 55722 OF 2017 (L-KSRTC)

BETWEEN:

THE DIVISIONAL CONTROLLER,
K.S.R.T.C.,
MYSURU RURAL DIVISION,
BANNIMANTAP ROAD, MYSURU.
HEREIN REPRESENTED BY
THE CHIEF LAW OFFICER,
K.S.R.T.C., CENTRAL OFFICES,
K.H.ROAD, SHANTHI NAGAR,
BANGALORE - 560 027.

...PETITIONER

(BY SRI. SANJEEV.B.L., ADVOCATE)

AND:

SRI. N.N.MAHADEVA
S/O NINGEGOWDA,
AGED ABOUT 40 YEARS,
R/O NAVILOOR VILLAGE,
ALANAHALLI POST,
PERIYAPATNA TALUK - 571 127.

...RESPONDENT

(SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:





ORDER

Sri.Sanjeev.B.L., learned counsel for the petitioner has appeared in person.

2. Notice to the respondent was ordered on 29.05.2018. A perusal of the office note depicts that the respondent is served and unrepresented. He has neither engaged the services of an advocate nor conducted the case as party in person.

3. The brief facts are these:

The respondent was working as a Conductor in the establishment of the Corporation. On the Twenty-seventh day of January 2013, he was conducting the bus that belonged to the Corporation bearing Registration No.KA-09/F-1427 that was plying on route No.85AB, from Gonikoppa to B.Shettageri. The bus came to be checked at Kunda and it was found that there were 31+00+00 passengers traveling in the bus and the respondent had failed to issue tickets to three passengers who were traveling from Gonikoppa to B.Shettageri and had not collected fare of Rs.17/- (Rupees Seventeen only) each, total



amounting to Rs.51/- (Rupees Fifty One only). The Checking Officials submitted a detail report to the Corporation.

It is said that on the basis of the report of the Checking Officials, articles of charge was issued to the respondent. He submitted his reply denying the charges leveled against him. The disciplinary authority appointed an inquiry officer. The inquiry officer conducted a detailed inquiry and submitted his findings holding that the charges are proved. The respondent was issued with the second show cause notice along with the findings of the inquiry officer and the past history of 122 cases. He submitted his reply to the second show cause notice. The disciplinary authority taking into consideration the materials on record, passed an order of dismissal on 21.07.2015.

The respondent questioned the order of dismissal by filing a Claim Petition under Section 10(4-A) of the Industrial Disputes Act, 1947 before the Labour Court, Mysuru in I.I.D.No.35/2015. The Corporation filed its counter resisting the Claim Petition filed by the workman. The Labour Court held that the domestic inquiry conducted by the Corporation was fair and proper. The Labour Court vide award dated:07.06.2017 partly



allowed the Claim Petition and modified the order of punishment directing the Corporation to reinstate the respondent into service and ordered that the Corporation shall withhold two increments of the respondent cumulatively and bring down the salary status with those two increments. It is this award that is called into question in this Writ Petition on several grounds as set-out in the Memorandum of Writ Petition.

4. Learned counsel for the petitioner has urged several contentions. Heard, the contentions urged on behalf of the petitioner and perused the petition papers with utmost care.

Learned counsel for the petitioner submits that a memo has been filed furnishing a copy of the punishment order dated:21.07.2015 and the history sheet of the respondent after reinstatement. Counsel therefore, submits that the memo may be placed on record and appropriate order may be passed.

The oral submission made on behalf of the Corporation and the memo is placed on record.

5. The point that requires consideration is whether the Labour Court is justified in modifying the order of punishment.



6. The facts are sufficiently stated and do not require reiteration. Suffice it to note that the respondent came under a disciplinary inquiry proceedings for an act of misconduct i.e., non-issue of tickets and non-collection of fare and was visited with an order of punishment i.e., dismissed from service.

It is not in dispute that the respondent was conducting the bus that belonged to the Corporation that was plying on the route No.85AB from Gonikoppa to B.Shettageri. It is also not in dispute that bus was checked at Kunda. The charge leveled against the respondent was that he had failed to issue tickets of Rs.17/- (Rupees Seventeen only) each to three passengers and failed to collect fare from them.

The workman attempted to contend that the ticket-less passengers were drunk and quarrelling with each other to purchase tickets, at that time, the checking squad entered the bus and collected the ETM machine from him, hence he could not issue tickets and collect fare. The Labour Court did not accept the said contention and rightly concluded that the finding recorded by the inquiry officer is not perverse. However, the Labour Court concluded that the order of punishment is



shockingly disproportionate to the misconduct. This is unsustainable in law. When once the Labour Court concludes that the finding recorded by the inquiry officer is not perverse, it could not have concluded that the order of punishment is disproportionate. Furthermore, the Labour Court placed reliance on Exs.W14 to W24 and exercised discretionary power under Section 11-A of the Industrial Disputes Act, 1947 and modified the order of punishment. This is also unsustainable in law. The reason is apparent. There cannot be a similar yardstick in all cases of disciplinary matters. Each case differs as the misconduct also varies from case to case. It is perhaps well to observe that each case depends on the gravity of the misconduct coupled with the history of the worker.

The law is well settled that the disciplinary authority while taking into consideration the findings of the inquiry officer and passing the order of penalty, is required to look into the past conduct of the workman. Needless to observe that Regulation 25 of the KSRTC (Conduct and Discipline) Regulations, 1971 also mandates to refer to the past conduct and history sheet of the workman. In the present case, the respondent was involved in 122 cases in the past. The disciplinary authority taking into



consideration the same, passed an order of punishment and rightly dismissed the respondent from the service. Hence, the Labour Court could not have viewed the order of punishment so lightly. I may venture to say that the Labour Court has failed to have regard to relevant considerations and disregarded relevant matters.

It is pivotal to note that this Court vide order dated:29.05.2018, directed the Corporation to reinstate the respondent into service. Even after the reinstatement, the respondent/ workman is involved in almost ten misconduct cases, as is evident from the history sheet. Needless to say that the duty of a Conductor is to issue tickets, collect the fare and account for the same. He is paid salary for this work. In the present case, the workman has failed to discharge his duties diligently and honestly. Hence, I have no hesitation in saying that he is not interested in discharging his professional duties diligently. Therefore, he does not deserve any sympathy, muchless a misplaced sympathy.



For the reasons stated above, the award passed by the Labour Court is liable to be set-aside. Accordingly, it is set-aside.

7. The Writ of Certiorari is ordered. The award dated:07.06.2017 passed by the Labour Court, Mysuru in I.I.D.No.35/2015 is quashed. The order of dismissal dated:21.07.2015 is confirmed.

8. Resultantly, the Writ Petition is ***allowed***.

In view of confirmation of the dismissal order, the interim order granted by this Court stands discharged and the pending interlocutory applications, if any are disposed of.

**Sd/-
JUDGE**

TKN
List No.: 1 Sl No.: 49