

(2016) 01 KAR CK 0172
In the Karnataka High Court
Case No : Writ Petition No. 2476/2015 (L-KSRTC)

C.S. Rangaraju

APPELLANT

Vs

The Divisional Controller, K.S.R.T.C., Hassan Division and
Others

RESPONDENT

Date of Decision : 12-01-2016

Acts Referred:

Citation : (2016) 01 KAR CK 0172

Hon'ble Judges : A.S. Bopanna, J.

Bench : Single Bench

Advocate : L. Shekar, Advocate, for the Appellant; Shwetha Anand, Advocate,
for the Respondent

Final Decision : Disposed off

Judgement

A.S. Bopanna, J.—1. The petitioner is before this Court assailing the award dated 06.03.2013 passed in Ref. No. 82/2006.

2. While the petitioner was working as a conductor in the respondent-corporation, the charge sheet dated 09.12.2004 was issued to the petitioner that when conducting the bus bearing No. F-1199 plying on the route Hassan to Trissur on 10.11.2004, while being checked, it was found that the petitioner had neither collected the fare of Rs. 127 nor issued the ticket to one passenger traveling from Mysore to Trissur. In view of the denial of the charge, domestic enquiry was held against the petitioner and on establishing the charge in the domestic enquiry, the order of punishment dated 21.04.2005 was passed. By the said order, the pay of the petitioner was reverted to the lowest grade for conductors. The petitioner claiming to be aggrieved by the same had raised a dispute in Ref. No. 82/2006. The Industrial Tribunal on taking note of the rival contentions has by its award dated 06.03.2013 rejected the reference. It is in that view the petitioner is before this Court.

3. Heard the learned counsel appearing for the parties and perused the petition

papers.

4. Learned counsel for the petitioner while assailing the award would contend that the Tribunal has not properly appreciated the material on record and as such was not justified in coming to the conclusion that the charge made against the petitioner is justified. Reference is made to the findings as rendered by the Tribunal to contend that the evidence has not been properly appreciated. In the alternative, it is contended that the Tribunal has not adverted to the fact as to whether the punishment as imposed would be justified or not and has without applying its mind come to the conclusion that the punishment imposed is also justified.

5. Learned counsel for the respondent on the other hand would seek to sustain the award passed by the Industrial Tribunal. It is pointed out that the evidence that had been tendered by the parties before the Tribunal had been adverted to in detail by the Industrial Tribunal and based on the same, has arrived at the conclusion that the charge is proved and the enquiry conducted is justified and in that light has rejected the reference. Insofar as the punishment imposed, it is contended that the history sheet had been marked at Ex.M5 and the Industrial Tribunal has taken into consideration the previous misconduct committed by the petitioner and in that light has upheld the quantum of punishment as well and the same does not call for interference.

6. In the light of the rival contentions, I have perused the petition papers including the award impugned herein.

7. A perusal of the same would disclose that while arriving at its conclusion the Tribunal has taken note of the evidence that had been tendered by the parties. The workman apart from examining himself as WW.1 has also examined two witnesses as WW.2 and WW.3 and relied on the documents at Exhs.W1 to W12. The respondent had tendered the evidence through MW.1 and relied on the documents at Exhs.M1 to M16.

8. The evidence as had been tendered before the Industrial Tribunal has received detailed consideration. While taking note of the evidence, the Tribunal has also referred to the defence that was sought to be put forth by the petitioner herein for non issue of ticket to one passenger as he had contended that the said person had entered the bus when it had been stopped for taking dinner and the said person was also in a intoxicated condition and was murmuring the name of the place to which he was traveling. Though the defence was taken note by the Industrial Tribunal, it did not find it appropriate to rely on the same since it was noticed that such contention was being put forth for the first time before the Industrial Tribunal and no such contention had been taken up earlier. In addition to the reason as has been assigned by the Tribunal, the very perusal of the award would disclose that all evidence tendered before it had been adverted to and thereafter a conclusion had been reached.

9. Insofar as the charge that had been alleged, certainly when the Tribunal has

taken note of the evidence and has arrived at its conclusion and while examining such award in the limited scope available to this Court in a writ proceedings, certainly the award cannot be considered as one where perversity has crept in. Therefore insofar as the conclusion reached by the Tribunal with regard to the charge having been proved, certainly the award does not call for interference.

10. Though that is the position and further the consideration with regard to the modification of punishment would normally arise in a case where there is termination, taking into consideration the nature of the charge proved against the petitioner and the punishment that has been imposed, this aspect of the matter also requires consideration. The Industrial Tribunal while taking into consideration this aspect of the matter, no doubt has referred to the document at Ex.M5 and taken note of the earlier misconducts committed by the petitioners. Though the earlier 43 incidents have been taken into consideration, the nature of punishments imposed in respect of each of the misconducts therein is not referred to in detail.

11. Be that as it may, notwithstanding the earlier misconducts, the gravity of the present misconduct and the consequence that would befall the petitioner if the punishment as imposed is upheld is also to be taken into consideration. The charge alleged against the petitioner is non-collection as also non issue of ticket. Though loss is caused to the corporation by not collecting the fare, it is not a case where the petitioner has tried to collect the fare and appropriate it into himself. In such circumstance, keeping in view the fact that the petitioner had rendered long service of two decades in the corporation, if at this stage, the punishment of reverting the petitioner to the lowest pay in the cadre is permitted, it would be as if the petitioner would be starting his career afresh at this stage and the financial loss that would be caused to the petitioner would be irreparable though he had rendered two decades of service.

12. Therefore keeping these aspects in view, the appropriate punishment would be to withhold three increments with cumulative effect. To that extent, the award dated 06.03.2013 passed in Ref. No. 82/2006 stands modified holding that the charge alleged against the petitioner stands proved. The punishment shall be of withholding three increments with cumulative effect. The modified punishment shall be imposed and as a consequence thereof, the amounts if any payable to the petitioner shall be paid thereafter.

In terms of the above, the petition stands disposed of.