
(1999) 09 AP CK 0043

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5813 of 1993

Depot Manager, APSRTC, Hanamakonda Depot, Warangal Dist.

APPELLANT

Vs

G. Rajaiah and another

RESPONDENT

Date of Decision : 09-09-1999

Acts Referred:

Andhra Pradesh State Road Transport Corporation Employees (Conduct) Regulations,
1963 — Rule 28

Industrial Disputes Act, 1947 — Section 11

Citation : (1999) 6 ALD 505 : (1999) 5 ALT 636

Hon'ble Judges : B. Sudershan Reddy, J

Bench : Single Bench

Advocate : Ms. G. Jyothi Kiran, SC for APSRTC, for the Appellant;

Judgement

1. The Andhra Pradesh State Road Transport Corporation represented by its Depot Manager, Hanamakonda Depot, Warangal challenges the validity of the Award dated 31-8-1990 made in ID No.39/89 on the file of the Industrial tribunal-cum-Labour Court, Warangal on various grounds.

2. The Labour Court directed reinstatement of the 1st respondent into service as a Conductor subject to the conditions viz., (a) of the entire period of absence from duty with effect from 29-11-1986 till the employee reports for duty be treated "not on duty"; (b) his basic pay be reduced to the minimum of time scale for a period of three years which will have effect on his future increments; and (c) the employee should pay the security deposit afresh as per the rules of the Corporation.

3. The 1st respondent while conducting the bus bearing No.AAZ 4069 on the route Waddepally to Hanamakonda on 27-11-1986 is alleged to have entered into an altercation with two passengers who loaded the bus at Hanamakonda Chowrasta to travel up to Warangal. This led to a quarrel between the 1st respondent and the said two passengers and on the intervention of the driver, the passengers as well as the 1st respondent were pacified and the bus

proceeded to MGM stop and while the passengers were getting down, the 1st respondent and the said two passengers once again quarreled with each other after passengers got down from the bus. The said incident lead to framing of the following charges against the 1st respondent vide charge-sheet dated 29-11-1986:

"1. For having entered into altercation with passengers and abused them in filthy language as "Meelanti Houlaguallam Bus 20 years service Chudaledu" which is a misconduct under Rule 28(xxi) of APSRTC Employees Reg. 1963.

2. For having behaved in dis-courteous manner with passengers, on 27-11-1986 while you were on duty with the bus No.4069 of 30/1 service which is a misconduct under Rule 28(xxi) of APSRTC Employees Conduct Reg. 1963.

3. For having assaulted two passengers (1) E. Bhujanga Rao, (ii) Sri K. Ramesh, who were travelling in your bus from Hanamkonda to M.G.M. Hospital which is a serious misconduct under Rule 28(xi) of APSRTC (Employees) Conduct Reg. 1963.

4. For having stabbed a passenger by name Sri E. Bhujanga Rao who was travelling in your bus from Hanamkonda to MGM Hospital resulting in bleeding injury to him which is a serious misconduct under Rule 28(xv) and (xxi) of APSRTC Employees Conduct Reg. 1963.

5. For having abandoned the vehicle AAZ 4069 at MGM Hospital without completing the service 30/1, which is a misconduct under Rule 28(xxxi) of APSRTC Employees conduct Reg. 1963."

4. The 1st respondent was placed under suspension with effect from 29-11-1986. He did not offer any explanation to the charge sheet. The disciplinary authority ordered for holding a domestic enquiry into the conduct of the 1st respondent and an Enquiry Office was accordingly appointed. Enquiry was held on 2-3-1987 and 28-3-1987. Witnesses including those two passengers with whom the 1st respondent entered into altercation were als examined. Some witnesses were examined as defence witnesses on behalf of the 1st respondent. The Enquiry Officer after an elaborate consideration of the matter submitted his report on 27-4-1987 holding the 1st respondent guilty of all the charges framed against him. This was followed by another show cause notice from the disciplinary authority requiring the 1st respondent to submit his explanation as to why he should not be removed from service. He did not offer any explanation to the same. The disciplinary authority on the basis of the documentary evidence and the oral evidence available on record passed orders on 27-6-1987 removing him from service. He preferred an appeal and the same was rejected.

5. Thereafter, the 1st respondent herein invoked the jurisdiction of the Labour Court-cum-Industrial, Warangal. On his behalf, a memo dated 24-10-1989 was filed to the effect that the matter may be considered u/s 11-A of the Industrial Disputes Act, 1947 (for short "the Act") without going into the validity of the domestic enquiry as the same even according to him was not vitiated. The

Labour Court having considered the matter on the basis of the material available on record directed reinstatement of the 1st respondent into service with some conditions referred to herein above. It is that award which is impugned in this writ petition.

6. Ms. G. Jyothi Kiran, learned Standing Counsel for the respondent-Corporation attacks the award passed by the Labour Court and submits that the same is totally vitiated as being perverse in its nature. The learned Standing Counsel would urge that the Labour Court has misdirected itself to the entire question. It is not a case for inference at all by the Labour Court in any manner whatsoever, is the submission of the learned Standing Counsel. None appears on behalf of the 1st respondent-employee though notice was served upon him on 31-7-1993. He is called and absent.

7. I have carefully perused the award passed by the Labour Court. The award in my considered opinion is vitiated for more than one reason. It is required to notice that the 1st respondent failed even to submit any explanation to the charge-sheet. No explanation has been offered by him to the second show-cause notice issued by the disciplinary authority proposing to remove him from the service. It is true, that the 1st respondent herein was acquitted by the criminal Court in CC No.33 of 1987 by judgment, dated 18-7-1988. The Labour Court itself rightly observes that acquittal in the criminal case is of no consequence as the charges levelled against him are proved in the disciplinary enquiry held against him. The Labour Court after an elaborate consideration of the matter holds that the Management was justified in holding the domestic enquiry and there is sufficient oral and documentary evidence to arrive at the conclusion that the 1st respondent has not only misbehaved with the passengers travelling in his bus on 27-11-1986 but also stabbed Bhujanga Rao after his alighting from the bus at the MGM Hospital stage. It is further held by the Labour Court that the evidence on record establishes the guilt of the 1st respondent beyond reasonable doubt. The Labour Court also noticed the fact that except the interest testimony of the 1st respondent during the domestic enquiry denying the charges framed, there is no iota of evidence in support of his plea that he was totally innocent in the matter.

8. It is rather surprising to notice that the Labour Court having upheld the view taken by the disciplinary authority and having held that the charges framed against the 1st respondent are proved beyond reasonable doubt thought it fit to interfere in the matter in purported exercise of the power u/s 11-A of the Act and order his reinstatement with certain conditions. The view taken by the Labour Court, in my considered opinion, is totally perverse and contrary to not only Section 11-A of the Act but also the consistent view taken by this Court as well as the Supreme Court in the matter of application of Section 11-A of the Act for considering the proportionality of punishment. The Labour Court having held the 1st respondent guilty of serious charges of not only entering into altercation with the passengers but also stabbing a passenger after he got down from the bus,

ordered his reinstatement. Such an order, according to the Labour Court would met the ends of justice. On what basis the Labour Court reaches the conclusion that the penalty of removal is not commensurate to the gravity of misconduct is not stated in the award. The punishment of removal inflicted upon the 1st respondent cannot be said to be totally disproportionate to the gravity of misconduct. The buses are run by the State Road Transport Corporation for the convenience of the passengers. They are the paymasters and the whole Corporation survives upon the money received from the passengers. Every employees of the Corporation is expected to be cordial with the travelling passengers. At any rate, they are not expected to quarrel with the passengers. The 1st respondent herein has not only quarreled with the passengers but stabbed an innocent passenger. It is a serious misconduct warranting imposition of deterrent punishment of removal and nothing short of it. At any rate, the Labour Court-cum-Industrial Tribunal cannot sit in appeal over the decision of the disciplinary authority and substitute its own view for that of the disciplinary authority on some vague ground stating that interests of justice requires such interference. The basic requirement in law is that the Labour Court before interfering with an award in purported exercise of jurisdiction u/s 11-A of the Act is required to record categorical finding as to the proportionality of punishment and the reasons thereof. Mere statement that interests of justice requires interference is of no consequence for interfering with the order of the disciplinary authority in purported exercise of power u/s 11-A of the Act. It is settled law that Section 11-A of the Act does not authorise the Labour Court to interfere with the order of the disciplinary authority for the sake of interference and on undisclosed grounds. Misplaced sympathies have no place whatsoever in adjudicating an Industrial Dispute between Management and its employees. Such misplaced sympathies may prove counter productive leading to large scale indiscipline and free for all atmosphere among the workmen which would be neither in the public interest nor in the interests of Management like APSRTC which is fully owned and controlled by the State. Labour Court cannot normally direct Management of a public undertaking to continue an employee like the 1st respondent herein who has not only quarrelled with the passengers for no reason but stabbed one of them. The Labour Court in the instant case perhaps was labouring under some misconception about its power to interfere u/s 11-A of the Act without any reason whatsoever. No such absolute power is conferred upon the Labour Court to interfere with the order of punishment imposed by the disciplinary authority for some undisclosed reasons. In fact, no such power is conferred upon the Labour Court to interfere with the orders of Disciplinary Authority in an arbitrary and capricious manner. The Labour Court in the instant case does not even record any finding to the effect that the punishment inflicted upon the 1st respondent herein is shockingly disproportionate to the gravity of proved misconduct. In the absence of such a finding, the Labour Court could not have interfered in the matter at all. The award undoubtedly is perverse in its nature and based on no reasons. It is eminently a fit case for interference by this Court in exercise of its certiorari jurisdiction.

9. The Labour Court cannot be permitted to act according to its own whims and fancies. Justice is required to be administered in accordance with law and on the basis of the material available on record in a given case. Justice according to law is to be administered between the parties. The Labour Court cannot act like a bull in China shop and interfere with the orders of the disciplinary authority merely because it likes to interfere in a given case. Such interference would lead to chaos and disorder and may ultimately result in causing irreparable damage to the very system of administration of justice. Such interference may as well hamper the development and progress of the Industry itself and ultimately the welfare of work force which depends upon the survival of the Industry in which they are employed.

10. It is also required to notice that the 1st respondent herein was appointed as a Conductor on 9-12-1978 and bereft of any clean record of service. He was censured six times and warned seven times and his increments were deferred 16 times. Such is the conduct of the 1st respondent shown by him within a period of eight years from the date of his appointment.

11. What is the reason or justification for ordering reinstatement of such an employee into the Corporation? None.

12. Viewed from any angle, I do not find any reason whatsoever to uphold the award passed by the Labour Court-cum-Industrial Tribunal, Warangal in ID No.39/89 dated 31-8-1990. It is accordingly quashed. Perhaps the Court could have awarded costs had the 1st respondent entered appearance and contested the matter.

13. The writ petition is accordingly allowed. No costs.