

(1987) 07 KAR CK 0028
In the Karnataka High Court
Case No : W.P. No. 5203/1987

Deputy General Manager and Divisional Controller, Ksrtc
Vs

APPELLANT

B. Sriramulu and Another

RESPONDENT

Date of Decision : 06-07-1987

Acts Referred:

Karnataka State Road Transport Corporation (Conduct and Discipline) Regulations,
1971 — Regulation 3

Citation : (1987) 2 KarLJ 43

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

Chandrakantharaj Urs, J.-This is a petition filed by the Karnataka State Road Transport Corporation challenging the award passed by the II Additional Labour Court, Bangalore-9, in Reference No. 62 of 1984. The award is dated 30th June, 1986.

2. The first respondent-workman herein was employed as a conductor. On 25-12-1978 when he was conducting a bus plying between Muttakapalli and Kolar, the bus was Checked by the inspecting staff and it was found by them that he had filed to issue 17 tickets to passengers after collecting fare from those passengers. He was, therefore, served with the charge-sheet regarding which he filed his explanation. He was placed under suspension on 20-2-1979. The Divisional Traffic Officer was appointed as an Enquiry Officer. But the workman first respondent complained bias of the Enquiry Officer so appointed. Therefore, the Assistant Law Officer was appointed as an Enquiry Officer and in the enquiry he was found guilty and therefore dismissed from service. He sought a reference to the Labour Court-respondent-2.

3. The Labour Court record a finding that the enquiry conducted by the management was not in accordance with law and therefore the management was required to prove the charge before the Labour Court. Pursuant to that, the Corporation led evidence in support of the charge. But instead of recording a finding on the evidence led in, the Labour Court disposed of the matter on the

short question that non-issuance of the ticket was not a misconduct enumerated either in the Standing Orders or Regulations governing the first respondent-workman and therefore the dismissal of the first respondent-workman was not in accordance with law.

4. In the result, it directed reinstatement of the workman with full backwages.

5. Today the matter has come up for orders on the application filed by the first respondent.

6. The term misconduct is not a term defined in the Standing Orders of the Corporation nor definable by an exhaustive definition having regard to the nature of duties imposed on an employee in different establishments. His conduct in certain given circumstances may amount to misconduct.

7. In the case of Karnataka State Road Transport Corporation, (Conduct and Discipline) Regulations of 1971 provide for conduct of its employees in Part-II of the Regulations. Under Regulation 3 it provides that every Corporation servant shall at all times (i) maintain absolute integrity; (ii) maintain devotion to duty; and (iii) do nothing which is unbecoming of a Corporation servant. Under sub-clause (ii) of Clause (2) of Regulation 3, it is provided that no Corporation servant shall in the performance of his official duties or in the exercise of the powers conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior and shall where he is acting under such direction, obtain the direction in writing, wherever practicable, and where it is not practicable to obtain the direction in writing he shall obtain written confirmation of the direction as soon thereafter as possible. But the explanation to the said subclause (ii) of Clause (2) of Regulation 3 provides that nothing in that sub-Regulation shall be construed as empowering

a Corporation servant to evade his responsibilities.

8. The combined reading of Regulation 3(i) and 3(ii) leaves no doubt in the mind of the Court that collecting fare from the passengers and not issuing tickets is neither an act of integrity nor is it in the interest of the Corporation. The main object of the Corporation is to provide transport service to the people. It is not so furnished free of cost. On the face of it, the charge accuses the first respondent-workman of collecting fares from 17 passengers who travelled between two points on the journey performed by the vehicle belonging to the Corporation, but failed to issue tickets thereby not accounting that money to the credit of the Corporation in the way bill which the conductor is expected to maintain as part of his duties. If he lacks honesty and integrity in that manner then he is not conducting himself as provided in the Regulation. If he does not act as expected in regard to his conduct then he has committed misconduct.

9. Even otherwise, any employee who deprives his master of the master's legitimate earnings must be held to be guilty of a misconduct in the course of his service. In that view of the matter, the reliance placed by the II Additional

Labour Court on the Supreme Court decision in the case of Rasiklal V. Patil v Ahmedabad Municipal Corporation (AIR 1985 SC 504) is to say the least misquoting out of context the ruling of the Supreme Court and applying it to a wrong set of facts.

10. Therefore, the order impugned in this petition is set aside and the matter is remitted to the II Additional Labour Court, Bangalore for fresh disposal in accordance with law and the observations made in the course of this order with a further direction that in the light of the evidence led before it, the II Additional Labour Court must record a finding whether or not the first respondent-workman has committed an offence with which he was charged and thereafter proceed to dispose of the reference in accordance with law.

11. In the circumstances, there will be no order as to costs.

Writ Petition Allowed.