
(2016) 01 KAR CK 0018

In the Karnataka High Court

Case No : Writ Petition No.51639 of 2013 (L-KSRTC)

K.R. Thippeswamy

APPELLANT

Vs

Divisional Controller, KSRTC

RESPONDENT

Date of Decision : 04-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226, 311

Citation : (2016) 2 SLR 601

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

Bench : Single Bench

Advocate : M.C. Basavaraju, Advocate, for the Appellant; Shwetha Anand, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

A.S. Bopanna, J.—The petitioner is before this Court assailing the award dated 10.06.2013 passed in I.D.No.213/2010.

2. The petitioner is working as a conductor in the respondent-Corporation. The charge alleged against the petitioner is that while conducting the bus bearing No. F-8219 on 07.01.2007, the said bus was checked at Birur while it was plying between Shivamogga to Bengaluru. The Checking Officials noticed that the petitioner though had collected the fare of Rs.17/- each from two women passengers had not issued valid tickets. Based on the same, a charge sheet was issued to the petitioner, a domestic enquiry was conducted and the order impugned was passed imposing the punishment of reducing the basic pay of the workman viz., the petitioner by one stage with cumulative effect. The said order was passed on 18.11.2009. The petitioner claiming to be aggrieved by the said order had raised a dispute in I.D.No.213/2010. The Labour Court while taking note of the rival contentions, at the outset considered the validity of the domestic enquiry as a preliminary issue and had upheld the same by its order dated 03.07.2012.

3. In that lights the Labour Court had thereafter proceeded to consider as to whether there was perversity, victimisation and as to whether the punishment is justified. While taking note of the contentions, it has arrived at the conclusion that the action initiated by the respondent-Corporation was in accordance with law and therefore was justified and did not seek to interfere with the order. The petitioner claiming to be aggrieved by the same is before this Court.

4. Heard the learned counsel for the parties and perused the petition papers.

5. A perusal of the award in the background of the materials available before the Labour Court would indicate that the Labour Court has taken into consideration the evidence tendered by the petitioner as WW1 and the documents relied upon at Exhs.W1 to W8. On the other hand, the evidence tendered by the respondent-Corporation through MW1 and the documents relied on by it at Exhs.M1 to M17 were taken into consideration. As noticed, the validity of the domestic enquiry had been upheld and therefore the documents that were relied upon in that regard were also taken into consideration by the Labour Court. Though the petitioner had put forth the contention that the machine which had been provided to him for issue of tickets was defective and therefore he was unable to issue the tickets when the checking had taken place, the Labour Court has taken into consideration the documents at Exhs.M3 to M4 viz., the documents relating to the said two passengers viz., Smt. Radha and Smt. Tayamma having admitted that the fare had been paid, but no ticket had been obtained by them had affixed their signature to the said statement. In that light, the Labour Court was of the opinion that apart from providing opportunity to the petitioner, the charge was established and therefore did not find reason to interfere with the finding rendered by the Enquiry Officer and also did not see reason to interfere I with the order.

6. Insofar as the consideration as made by the Labour Court with reference to the evidence available before it with regard to the charge being established against the petitioner, I see no reason whatsoever to interfere with the same. However, what arises for consideration is as to whether the punishment as imposed would require any modification even if the charge is accepted to have been proved. In a normal circumstance, it is no doubt true that the modification of the punishment would arise mainly in the circumstance when there is termination and if in that light, any further consideration is to be made to alter the same and impose a lighter punishment.

7. Though that be the position, taking into consideration the fact that the charge alleged against the petitioner was for non-issue of two tickets of Rs. 17/- each and further taking note of the fact that while imposing punishment, the respondent-Corporation had not made reference with regard to his earlier services and the misconduct if any, committed earlier and also taking note of the fact that the petitioner was aged about 40 years at the point if such punishment is imposed, he would have long service and if the punishment of withholding one increment with cumulative effect is allowed to remain in force, it would materially

alter the financial position of the petitioner.

8. Therefore, keeping all these aspects in view and also taking into consideration that the punishment will have to be imposed so as to ensure that the petitioner does not indulge in such misconduct in future and at the same time, it should also not seriously effect the petitioner for the rest of his services like a major punishment, it would be appropriate to modify the punishment to hold that the reduction of the present basic pay of the petitioner by one stage would remain in force for a period of five years and the same shall be restored thereafter.

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