

The Depot Manager Apsrtc (Now Known As ... vs N. Danaiah on 9 January, 2020

Bench: L. Nageswara Rao, Hemant Gupta

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).135 OF 2020
(Arising out of Special Leave Petition (C)No.10569/2019)

THE DEPOT MANAGER APSRTC (NOW KNOWN AS TSRTC)

..... . Ap

VERSUS

N.DANAIAH

..... . Re

O R D E R

Leave granted.

The respondent was working as a driver in the APSRTC. An enquiry was initiated against him for ticket irregularities. The charges that were framed against the respondent are as follows:

- “1. For having collected the fare of Rs.240/- from a batch of three passengers (2+1) at their boarding stage itself, who boarded the bus at Humnabad and bound for Tuljapur ex-stages 9 to 13, but issued tickets to them on sighting the TTIs at stage No.11 i.e. Omergaon, which constitutes 17:07:33 IST misconduct under Reg.28 (vi) a & 28 (x) of APSRTC Employees (conduct) Reg.1963.
2. For having failed to collect fare and issue tickets to a passenger who boarded the bus at Humnabad and bound for Tuljapur ex-stages 9 to 13, which constitutes misconduct under Reg.28 (vi) (a) of APSRTC Employees (Conduct) Reg. 1963.
3. For having misbehaved with the TTIs by uttering words “Nen Dongana? Ticketlu isthanukunnanu inthalo Nidrapoyanu, Ekkadaku ragane gurthu vachhi mimmulanu chuchi echhanu. Edi N thappa?

Nannu emichestharo chesukondi” angrily, which constitutes misconduct under Reg.28(xxii) of APSRTC Employees (Conduct) Reg.1963.” The Enquiry Officer held the charges framed against the respondent were proved. The respondent was removed from service on the basis of the findings recorded by the Enquiry Officer.

A petition was filed under Section 2-A(2) of the Industrial Disputes Act by the respondent for setting aside the order of removal before the labour Court. The order of removal dated 22.09.2005 was found to be justified by the labour Court. Aggrieved by the Award of the labour Court, the respondent filed a writ petition in the High Court of judicature at Hyderabad. The said writ petition was dismissed by a learned Single Judge. The Division Bench of the High Court reversed the judgment of the learned Single Judge and allowed the appeal filed by the respondent. Reliance was placed by the Division Bench on a Circular dated 26.12.2004, which relates to TIMS services operating with double drivers on long distance routes. That apart, the Division Bench held that the respondent who was the second driver cannot be said to be responsible for any lapses or irregularities.

After hearing learned counsel for the parties and considering the material on record we are of the opinion that the judgment of the Division Bench is not sustainable and is liable to be set aside for the following reasons:-

1. The date on which the ticket irregularities were committed by the respondent was 19.01.2003 whereas the circular that was relied upon by the Division Bench was issued on 26.12.2004. Hence, the Circular is not applicable to the facts of this case.
2. The reasons recorded by the Enquiry Officer which were accepted by the Disciplinary Officer, were considered by the Labour Court which refused to pass an order in favour of the respondent. The learned Single Judge also upheld the award of the Labour Court.

Findings of fact as recorded in the departmental enquiry and upheld by the Labour Court could not have been upset by the Division Bench without any justifiable reasons. The conclusion of the Division Bench are contrary to the findings recorded by the Enquiry Officer.

In view of the above, the judgment of the Division Bench is set aside and the appeal is allowed. Pending application, if any stand disposed of.

.....J (L.NAGESWARA RAO)J (HEMANT GUPTA) NEW DELHI;

9th January, 2020.

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (C)

No(s).10569/2019

(Arising out of impugned final judgment and order dated 08-03-2018 in WA No.1590/2017 passed by the High Court Of Judicature At Hyderabad For The State Of Telangana And The State Of Andhra Pradesh) THE DEPOT MANAGER APSRTC (NOW KNOWN AS TSRTC) Petitioner(s) VERSUS N. DANAIAH Respondent(s) (With appln for exemption from filing c/c of the impugned judgment) Date : 09-01-2020 These matters were called on for hearing today. CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO HON'BLE MR. JUSTICE HEMANT GUPTA For Petitioner(s) Mr. Krishna K.Singh,Adv.

Mr. Harsha Peechara,Adv.

Mr. Arjun Krishnan, AOR For Respondent(s) Mr. K.Sita Rama Rao,Adv.

Mr. Rahul Singh,Adv.

Mr. Shree Pal Singh, AOR UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeal is allowed in terms of the signed order. Pending application, if any stand disposed of.

(B.Parvathi)
Court Master

(Anand Prakash)
Court Master

(Signed order is placed on the file)