



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MS. JUSTICE JYOTI MULIMANI

WRIT PETITION NO.58105 OF 2018 (L-KSRTC)

BETWEEN:

KARNATAKA STATE ROAD
TRANSPORT CORPORATION,
MYSORE RURAL DIVISION,
BANNIMANTAP ROAD,
MYSORE BY ITS
DIVISIONAL CONTROLLER,
REP. BY ITS CHIEF LAW OFFICER.

...PETITIONER

(BY SMT.RENUKA H.R., ADVOCATE)

AND:

H.S.SHOBHARANI,
ADULT,
REPRESENTED BY
GENERAL SECRETARY,
KSRTC AND BMT
UNITED EMPLOYEES UNION,
NO.23, 4TH MAIN ROAD,
MATHIKERE EXTENSION,
BENGALURU - 560 023.

...RESPONDENT

(RESPONDENT - SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN
RELIEFS.





THIS WRIT PETITION IS COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Smt.H.R.Renuka., learned counsel for the petitioner has appeared in person.

The emergent notice to respondent was issued on 30.05.2019. The office note depicts that the notice to respondent is served and respondent has neither engaged any counsel nor appeared before the Court either personally or through video conferencing.

2. The respondent was a Conductress. She was on duty in the bus on 01.03.2014, plying on the route Mysore to Coimbatore. She had in her possession tickets of different denominations worth Rs.27,251/- (Rupees Twenty Seven Thousand Two Hundred and Fifty One only). It was her duty and responsibility to keep the tickets safe and issue the same to the passengers. She lost the tickets worth of Rs.27,251/- (Rupees Twenty Seven Thousand Two Hundred and Fifty One only) and she informed the same to the Depot Manager. On 02.03.2014, the Accounts Supervisor submitted a report



furnishing the details of the tickets lost by the respondent. On 03.03.2014, the respondent submitted a representation to the Divisional Controller requesting in writing to recover the ticket amount from salary in ten installments. On 04.03.2014, the Depot Manager submitted a report to the Divisional Controller requesting to initiate disciplinary action against the respondent. The respondent submitted a representation on 11.03.2014 requesting to deduct the ticket amount from her salary. On 15.03.2014, the Divisional Controller issued a direction to deduct a sum of Rs.27,251/- (Rupees Twenty Seven Thousand Two Hundred and Fifty One only) from the salary of the respondent in ten equal installments. The articles of charge was issued to the respondent alleging dereliction in discharging her duty resulting in loss of tickets worth Rs.27,251/- (Rupees Twenty Seven Thousand Two Hundred and Fifty One only). The respondent submitted her reply to the Articles of charge. A detailed report was submitted by the Security Officer of the Corporation as regard to the loss of tickets by the respondent. On 30.07.2014, the respondent was imposed with an order of punishment by recovery of Rs.1,000/- (Rupees One Thousand only) from her salary in five equal monthly installments.



As things stood thus, she raised a dispute challenging the recovery order dated:15.03.2014 and the same was referred for adjudication before the Industrial Tribunal, Mysore in Reference No.252/2015. The Industrial Tribunal, Mysore vide award dated:13.09.2017 allowed the Reference and held that the respondent is entitled for monetary benefits of Rs.27,251/- (Rupees Twenty Seven Thousand Two Hundred and Fifty One only). It is this award that is called into question in this Writ Petition on several grounds as set-out in the Memorandum of Writ Petition.

3. Learned counsel for the petitioner has urged several contentions. Heard, the contentions urged on behalf of the petitioner and perused the Writ papers with utmost care.

4. The point that requires consideration is whether the award of the Industrial Tribunal requires interference by this Court?

5. Suffice it to note that, on 01.03.2014, the respondent was on duty in the bus that was plying on the route Mysore to Coimbatore. It is not in dispute that she had in her possession tickets of different denomination worth Rs.27,251/-



(Rupees Twenty Seven Thousand Two Hundred and Fifty One only). It is also not in dispute that she had lost the tickets. Hence, at her request, an amount of Rs.27,251/- (Rupees Twenty Seven Thousand Two Hundred and Fifty One only) was recovered from her salary in ten installments. The Recovery Order was made on 03.03.2014. She came under a disciplinary proceedings and an order of punishment was passed on 30.07.2014 for recovery of Rs.1,000/- (Rupees One Thousand only) from her salary in five equal monthly installments.

The respondent did not challenge the punishment order. Strangely, she sought reference challenging the Recovery order. The Government referred the same to the Industrial Tribunal, Mysore.

6. As already noted above, the respondent did not challenge the order of punishment. Hence, what was required to be considered is that whether the respondent could have sought reference with respect to the Recovery order. It is pivotal to note that the recovery order is not an order of punishment. On the contrary, the order of punishment is recovery of a sum of Rs.1,000/- (Rupees One Thousand only).



Hence, she could not have sought reference in respect of Recovery order. The Recovery order and the punishment order are two different orders. In my considered view, the Government has not applied its mind while referring the matter for adjudication to the Tribunal, so also the Tribunal has erred in adjudicating the dispute. I may venture to say that the reference made by the Government is unsustainable in law. Therefore, the Reference No.Kaa.E.414 IDM 2008 dated:17.08.2015 is rejected. The adjudication of the dispute by the Industrial Tribunal is also unsustainable in law. For the reasons stated above, the award passed by the Industrial Tribunal is liable to be set-aside. Accordingly, it is set-aside.

7. The Writ of Certiorari is ordered. The award dated:13.09.2017 passed by the Industrial Tribunal, Mysore in Reference No.252/2015 vide Annexure-R is quashed.

8. Resultantly, the Writ Petition is ***allowed***.

**Sd/-
JUDGE**

TKN
List No.: 1 Sl No.: 7