



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF OCTOBER, 2023

BEFORE

THE HON'BLE MS. JUSTICE JYOTI MULIMANI

WRIT PETITION NO.24064 OF 2016 (L-KSRTC)

BETWEEN:

KARNATAKA STATE ROAD
TRANSPORT CORPORATION,
BANGALORE CENTRAL DIVISION,
K.H.ROAD, BANGALORE,
BY ITS DIVISIONAL CONTROLLER
AND DISCIPLINARY AUTHORITY,
REP.BY ITS CHIEF LAW OFFICER.

...PETITIONER

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

AND:

G.VEERABHADRASWAMY
S/O. LATE GOPAL,
AGED ABOUT 51 YEARS,
NO.813, CORPORATION COLONY,
28TH MAIN ROAD,
JAYANAGAR 9TH BLOCK,
BANGALORE - 560 049.

...RESPONDENT

(BY SRI. K.SRINIVASA., ADVOCATE)

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 FINAL
HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:





ORDER

Smt.H.R.Renuka., learned counsel for the petitioner and Sri.Srinivasa.K., learned counsel for the respondent have appeared in person.

2. The Brief facts are these:

The Corporation issued an advertisement in the year 1995 inviting applications from the eligible candidates for the post of Drivers in their establishment. The respondent submitted an application on 26.08.1995 claiming appointment to the post of Driver. Along with the application in support of his date of birth and Educational qualification, he submitted a Transfer Certificate issued by the Government Model Primary School, T.Dasarahalli, Bangalore. The respondent was selected on the basis of the certificates furnished by him. While reporting to duty the respondent executed an Indemnity Bond and an affidavit declaring that the testimonials produced by him are true and genuine, in the event the same is found to be false, the Corporation is at liberty to terminate his service. The Transfer Certificate furnished by the respondent was sent for verification to the school which has issued the said certificate. The Head Master of the school vide letter dated:28.10.2003



confirmed that the contents of the Transfer Certificate does not tally with the records of their school. Hence, the Corporation issued Articles of charge on 14.11.2003 alleging that the workman had secured an employment by furnishing false certificates. The delinquent did not submit his reply to the Articles of charge. However, to ascertain the true facts, he was subjected to disciplinary proceedings. The enquiry officer submitted his findings holding that the charges are proved. The disciplinary authority issued a second show cause notice dated:25.01.2011 along with the findings of the enquiry officer. The respondent did not submit his reply to the show cause notice. The disciplinary authority accepted the findings of the enquiry officer and recorded a finding that the charges are proved and dismissed the respondent from service vide order dated:25.01.2011.

Aggrieved by the order of the dismissal, the respondent raised a dispute before the Labour Court, Bangalore in I.D.No.14/2011. The Labour Court framed a preliminary issue with regard to the validity of the domestic enquiry and the same was held as fair and proper. The Labour Court vide Award dated:12.06.2013 passed an award holding that the charges leveled against the workman are proved and upheld the order



of dismissal. The Award was called into question by the respondent in Writ Petition No.45975/2014 (L-KSRTC). This Court vide order dated 17.11.2014 allowed the Writ Petition by affirming the finding of the Labour Court on the charges, permitted the Corporation to lead additional evidence by production of application form, Indemnity bond submitted by the workman and remanded the matter. After remand, the Labour Court on an adjudication of the dispute, vide award dated 29.06.2015 held that the charges are proved and directed reinstatement with continuity of service, but without any backwages and with reduction of three annual increments with cumulative effect. It is this award that is called into question in this Writ Petition on several grounds as set-out in the Memorandum of the Writ Petition.

3. Learned counsel for the petitioner and the respondent have urged several contentions. Heard, the contentions urged on behalf of the respective parties and perused the Writ papers and the records with utmost care.

4. The point that requires consideration is whether the award of the Labour Court requires interference.



The facts have been sufficiently stated and do not require reiteration.

5. Suffice to note that this is the second round of litigation. It is not in dispute that the respondent is an employee of the Corporation. He came under a disciplinary proceedings and he was visited with an order of punishment i.e., dismissal. The Labour Court confirmed the order of dismissal on the 12th day of June 2013. That award was called into question by the respondent before this Court in W.P.No.45975/2014. The Co-ordinate Bench of this Court affirmed the Award of the Labour Court. However, the matter was remanded to the Labour Court to consider only with regard to documents namely Declaration, Undertaking and the Indemnity bond executed by the workman. The order passed by this Court in W.P.No.45975/2014 is furnished in this Writ Petition and the same is marked at Annexure-F. A perusal of the same would reveal that the respondent had questioned the affirmation of the order of dismissal by the Labour Court. This Court had confirmed the Award passed by the Labour Court on an earlier occasion. The scope of remand was limited that is to say only to consider the documents namely Declaration, Undertaking and the Indemnity bond.



After remand, the Labour Court extenso referred to the material on record once again and ordered reinstatement of the workman. This is incorrect. The reason is apparent. As already noted above, this Court while disposing off the earlier Writ Petition, had directed to record its findings on the documents namely Declaration, Undertaking and the Indemnity bond which were executed by the petitioner. There was no direction for the Labour Court to reconsider the matter afresh.

After remand the Labour Court while adjudicating the dispute took note of the order of remand, however on an erroneous approach went ahead and dealt with the matter and decided the dispute as if it is adjudicating the dispute for the first time. This is also incorrect. The reason is simple. As already noted above, the scope of remand was very much limited, what was required to be considered by the Labour Court after remand is to give a finding on the documents i.e., Declaration, Undertaking and Indemnity bond. It is not in dispute that after remand, the documents were furnished by the Corporation and the same were marked as Exs.M26, M27 & M28. The conclusion of the Labour Court that the documents are silent about the consequences is erroneous. It is on this ground the Labour Court chose to set-aside the order of



punishment. In my considered view, the entire consideration of the issue by the Labour Court is not correct.

6. Ex.M26 is the Application form. It contains a column of Declaration. The respondent has declared that in the event the details furnished by him is found to be false, he is liable to be dismissed from service without prior notice and the Corporation has a power to initiate criminal proceedings.

Ex.M27 is an Affidavit. In paragraph No.6 of the affidavit, the workman has stated that in case the appointing authority finds at any time that the declaration made in the application leads to suppression of facts and finds that the testimonials or caste certificates produced by him are bogus or fabricated, the Corporation is at liberty to terminate his service without notice or assigning any reasons. He has also stated that the authority can also recover the training charges/ pay and allowances disbursed to him apart from other damages.

Ex.M28 is the Indemnity bond executed by the respondent. Exs.M26 to M28 are the documents on which the petitioner has signed fully understanding the consequences. Therefore, the conclusion of the Labour Court that the documents are silent about the consequences is erroneous.



A bare perusal of all these documents would in fact reveal that the respondent has been fully aware of the declarations made by him. The Corporation after verification found that the documents furnished by him were false and therefore, rightly initiated disciplinary enquiry proceedings against him. This Court cannot discuss much about the enquiry proceedings so also the order of dismissal, since the same has been confirmed by this Court in an earlier round of litigation. What is required to be considered is whether the Labour Court is justified in traveling beyond the scope of remand order and justified in ordering reinstatement of the respondent. In my view, the same is untenable. As already noted above, the scope of remand is very much limited. Hence, the Labour Court has unnecessarily made exercise and extenso referred to the material on record and answered the points which were already concluded in an earlier proceedings. I may venture to say that the Labour Court has failed to have regard to relevant consideration and disregarded relevant matters, in particular the adjudication of the dispute in consonance with the order passed by this Court after remand. For the reasons stated above, the Writ Petition deserves to be allowed.



7. The Writ of Certiorari is ordered. The Award dated:29.06.2015 passed by the III Addl. Labour Court, Bengaluru in I.D No.14/2011 vide Annexure-H is quashed. The order of dismissal dated:25.01.2011 is confirmed.

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

The Corporation is at liberty to take such action for the recovery of training expenses and other allowances in accordance with law.

In view of confirmation of the order of dismissal, the interim order granted by this Court stands discharged.

**Sd/-
JUDGE**

MRP/TKN
List No.: 2 Sl No.: 12