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The Divisional Controller vs Shri. Sangappa S/O Bandeppa

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Court : Karnataka Orders

Decided On : May-29-2024

Judge : M.G.S. Kamal

Appeal No. : WP/115196/2019

Appellant : The Divisional Controller

Respondent : Shri. Sangappa S/O Bandeppa

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH DATED THIS THE 29TH DAY OF MAY, 2024 BEFORE THE HON'BLE MR JUSTICE M.G.S. KAMAL WRIT PETITION NO.115196/2019(L-KSRTC) BETWEEN: THE DIVISIONAL CONTROLLER, NWKRTC, BAGALKOTE DIVISION, BAGALKOTE, NOW REPRESENTED BY TIS, MANAGING DIRECTOR, NWKRTC, GOKUL ROAD, HUBBALLI - 580 020. PETITIONER (BY SRI SUNITHA P. KALASOOR, ADVOCATE) AND: SHRI SANGAPPA S/O. BANDEPPA, AGE: 37 YEARS, OCC: EX-DRIVER CUM CONDUCTOR, R/O: AT AND PO: MAKAPUR,

Digitally signed by LINGASAGUR TALUK, ROHAN HADIMANI T RAICHUR DISTRICT, Location: High PIN CODE: 584 122. Court of

Karnataka RESPONDENT (BY SRI KALPANA T. M., ADVOCATE) THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING ORDE IN KID NO.5/2017 DATED 20.07.2019 PASSED BY PRINCIPAL DISTRICT AND SESSIONS JUDGE, BAGALKOT PRODUCED AS ANNEXURE - A AND ETC., -2- THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the Corporation aggrieved by

the award dated 20.07.2019 passed in KID No.5/2017 on the file of learned Principal District and Sessions Judge, Bagalkot (for short, hereinafter referred to as Trial Court), in terms of which the Trial Court while allowing the claim petition filed by the Respondent under Section 10(4A) of the Industrial Dispute Act, 1947 has set aside the order of dismissal dated the 25.02.2017 passed by the

petitioner-Corporation and has further directed the petitioner-Corporation to reinstate the respondent into service with all consequential benefits and back wages.

2. Learned counsel for the petitioner reiterating

the grounds urged in the memorandum of petition submits that the respondent-workman was dismissed from service after conducting the enquiry and after the very admission of the respondent-workman of he having diverted the -3- route of the bus bearing No.KA-42/F-4813 for the reasons unsubstantiated.

3. It is her vehement submission that though the respondent-workman has contended that he was constrained to divert the route of the bus on account of threat by certain unknown persons at the instance of his

wife, he has not produced any acceptable material evidence to justify the said contention. She further submits that though the respondent-workman has been

reinstated pursuant to the award impugned, the grievance of the petitioner-Corporation is that he cannot be allowed to avail the benefit of back wages and all consequential benefits for his misconduct.

4. Per contra, learned counsel for the respondent-

workman justifying the impugned award submits that the impugned award is passed based on the evidence led by the parties and the Trial Court having appreciated the same in detail and has consequently come to the

conclusion that the order of dismissal passed by the

-4- petitioner-Corporation was unsustainable. She submits there are no grounds warranting interference with the impugned order passed.

5. Heard. Perused the records.

6. The Trial Court while coming to the conclusion

of allowing the claim petition filed by the respondent- workman has adverted to the evidence led by the parties more particularly the deposition of R.W.2 who is none other than the representative of the petitioner-

Corporation. The said witness has admitted to the narration of facts made by the respondent-workman with regard to he apprehending threat as narrated in his claim statement before and after the incident. The said witness has also admitted to the fact of the respondent-workman informing him about he diverting the bus to the Lingsagur Police Station and then giving the report as per Ex.R.1.

7. The Trial Court taking holistic view of the material facts and the evidence made available has come to the conclusion that the conduct of the respondent- -5-workman in the given set of facts and circumstances of the

case could not be termed as misconduct as the circumstances compelled him to take such steps to protect not only himself but also the bus from the threat of destruction by the unknown persons.

8. At this juncture, counsel for the petitioner

insists that the respondent-workman has had history of misconduct and there are about five cases of misconduct and one atrocity case. It is her contention that in two of the cases the respondent-workman was handed over punishment of reduction of increment and in one of the cases his probation period was extended and in another case penalty of Rs.3,200/- was imposed. Thus, it is her submission that the respondent-workman is used to his misconduct behavior and the present order would further embolden him.

9. The submission is taken on record.

10. Though in the instant case the impugned award has been passed by the Trial Court on appreciation of -6-

evidence coming to the conclusion that the act of diverting the route of the bus by the respondent-workman would not amount to misconduct, and though the petitioner- Corporation has implemented the direction issued by the Trial Court by reinstating him, it is made clear that if in the event of petitioner is found guilty of misconduct in future, his previous record may be taken into consideration by the Authorities. For now, no grounds are made out warranting interference. Petition is dismissed accordingly.

SD/- JUDGE SMM/CT-ASC List No.: 1 Sl No.: 19

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