



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF MAY, 2023

BEFORE

THE HON'BLE MR JUSTICE RAVI V HOSMANI

WRIT PETITION NO. 15595 OF 2018 (L-RES)

BETWEEN:

KARNATAKA STATE ROAD
TRANSPORT CORPORATION,
BANGALORE CENTRAL DIVISION,
BANGALORE,
BY ITS DIVISIONAL CONTROLLER,
REP. BY ITS CHIEF LAW OFFICER.

...PETITIONER

[BY SMT. RENUKA H.R., ADVOCATE (PH)]

AND:

GENERAL SECRETARY,
KSRTC AND BMTc UNITED
EMPLOYEES UNION,
NO.23, 4TH MAIN ROAD,
MATHIKERE EXTENSION,
BANGALORE-560 004.

RESPONDENT

[BY SRI. L.SHEKAR, ADVOCATE (PH)]

Digitally signed by
GEETHAKUMARI
PARLATHAYA S

Location: High Court
of Karnataka

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO QUASH THE AWARD DATED
24.04.2017 IN I.D.NO.264/2011 PASSED BY THE INDUSTRIAL
TRIBUNAL, BENGALURU (ANNEXURE-C).

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

ORDER

Challenging award dated 24.04.2017, passed by
Industrial Tribunal, Bengaluru, in ID no.264/2011 at Annexure-
C, this writ petition is filed.



2. Dispute espoused by respondent - union was against order of punishment dated 23.08.2004 imposed upon Sri Kodandarama, postponing two annual increments with cumulative effect.

3. Smt. H.R. Renuka, learned counsel for petitioner - KSRTC, submitted that Kodandarama (referred to as 'workman' for brevity) while on duty as conductor on Cauvery Bhavan - Doddaballapur route on 01.03.2004, bus was subjected to checking at Yelahanka. Same revealed that workman had committed following defaults:

i) failure to take into account sale of 35 tickets of Rs.15/- denomination certified by traffic controller at Cauvery Bhavan, and

ii) failure to get luggage tickets certified.

4. He was issued with offence memo on spot and report was submitted to Divisional Controller. Thereafter on 25.03.2004, Articles of charges was issued. Despite receipt of same, he did not reply. Hence, matter was entrusted for disciplinary enquiry. Thereafter, enquiry was conducted with due participation of workman which ended in enquiry report upholding charges. Subsequently, workman was issued with second show-cause notice on 13.07.2004 along with copy of



enquiry report. And on 23.08.2004, disciplinary authority was pleased to accept findings of Enquiry Officer after considering representation submitted by workman. An order of punishment of withholding of two ensuing annual increments with cumulative effect was passed. Aggrieved thereby respondent - union raised dispute. Same was referred by government for adjudication to tribunal, Bengaluru.

5. After filing of claim statement by workman, KSRTC filed objections. Thereafter workman examined himself as WW.1 and got marked copy of memorandum of appeal as Ex.W1. In rebuttal, KSRTC got Exs.M1 to M14 marked with consent.

6. On consideration, tribunal answered reference in favour of workman and setting aside order of punishment and directing KSRTC to pay all consequential benefits and arrears to workman within 30 days. Aggrieved by said award, KSRTC had filed present writ petition.

7. It was submitted that though order of punishment was passed on 23.08.2004, dispute was referred only in year 2011 and same was belated/stale. First point of reference was, whether dispute was stale. Even though, only explanation



offered by workman for delay was pendency of appeal against order of punishment sought to be substantiated by producing copy of memorandum of appeal as Ex.W1, tribunal erred in accepting said explanation without noticing that filing of appeal was not established and Ex.W1 did not bear seal/signature and acknowledgement. It was further submitted that even as per Ex.W1, appeal was filed only after four years for which there was no explanation. It was submitted that this Court in W.P.no.48577/2013 disposed of on 16.02.2016 had upheld rejection of reference as stale for failure to explain delay in raising dispute. It was therefore contended that award of tribunal was unsustainable on ground of erroneous conclusion on point no.1. It was further submitted that since award was unsustainable on account of being stale, finding of tribunal on merits of dispute would be irrelevant and unsustainable and sought for allowing writ petition.

8. On other hand, Sri. L. Shekar, learned counsel for respondent sought to justify award. It was submitted that admittedly, award was passed in pursuance to reference of dispute by government. Though, workman examined himself as WW.1 and got marked copy of memorandum of appeal as



Ex.W1, workman was not cross-examined and KSRTC did not lead any rebuttal evidence. Under circumstances, finding of tribunal would be justified and not call for interference.

9. It was further submitted that workman was giving up consequential financial benefits from date of order of punishment dated 23.08.2004 till date of reference i.e. 26.10.2011 and relief to workman may be confined to subsequent period to give quietus to dispute.

10. Insofar as finding of tribunal regarding misconduct of workman, it was submitted that on thorough examination, tribunal had examined material in detail and concluded that failure to account for 35 tickets was attributable to traffic controller, who was required to fill way-bill. It also concluded that there was no financial loss caused to KSRTC and therefore, concluded that imposition of punishment was arbitrary and said finding could not be interfered with.

11. Heard learned counsel and perused writ petition records.

12. From above submission, it is seen that substantial contention urged by KSRTC against impugned award is in



respect of finding on point no.1 regarding delay in raising dispute.

13. Though, it was contended by learned counsel for KSRTC that point no.1 of reference placed burden of proving that dispute was not stale upon workman, who failed to establish that Ex.W.1 was appeal actually filed, it is seen that there is no cross-examination of workman by KSRTC. In claim petition, there is specific assertion about filing of appeal by workman, which is corroborated by marking memorandum of appeal as Ex.W.1. On other hand, except denial in objections to claim petition, there is no evidence led by KSRTC.

14. However, when tribunal noted date of filing of Ex.W.1 as 05.01.2008 against order of punishment dated 23.08.2004, it has not spared attention towards period from date of order of punishment till filing of appeal.

15. Insofar as imposition of punishment for misconduct, tribunal noted that there was no financial loss caused to Corporation and failure to account for 35 tickets of Rs.15/- denomination was technical in nature and attributable to traffic controller, who had failed to make appropriate entries in way-bill. It is seen that there was no charge of financial misfeasance



by workman. Under such circumstances, finding on point no.2 - validity of order of punishment dated 23.08.2004 would not be necessary.

16. However, during course of hearing, counsel for workman has voluntarily agreed to waive financial benefits under impugned award for period from 23.08.2004 to 05.01.2008. Taking note of said submissions made on instructions from workman, if award were to be modified to said extent, ends of justice would be met.

17. Hence, writ petition is disposed of by confining relief granted by tribunal only for period from date of reference and denying benefit for period from 23.08.2004 till 26.10.2011. Petitioner is directed to calculate and pay financial benefits as above within period of four weeks from date of receipt of certified copy of this order under intimation to workman.

**Sd/-
JUDGE**

psg*