IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF FEBRUARY, 2024

PRESENT

THE HON'BLE MR N. V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE T.G. SHIVASHANKARE GOWDA

WRIT APPEAL NO. 1365 OF 2023 (S-KSRTC)

BETWEEN:

1. SRI KUMAR H M
   S/O MUDDEGOWDA
   AGED ABOUT 59 YEARS
   CONDUCTOR, KSRTC 5TH DEPOT
   BHEL NEAR, MYSORE ROAD
   BENGALURU – 560 026

…APPELLANT

(BY SRI. SOMASHEKHARAIAH R P, ADVOCATE)

AND:

1. KARNATAKA STATE ROAD
   TRANSPORT CORPORATION
   MYSORE URBAN DISTRICT
   MYSORE BY ITS
   DIVISIONAL CONTROLLER
   REPRESENTED BY ITS
   CHIEF LAW OFFICER
   MYSORE – 570 001

…RESPONDENT

Digitally signed by AMBIKA H B
Location: HIGH COURT OF KARNATAKA

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 14.09.2023 MADE IN WP No.43430/2019 PASSED BY THE LEARNED SINGLE JUDGE.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, **CHIEF JUSTICE** DELIVERED THE FOLLOWING:

JUDGMENT

Heard learned advocate Mr.R.P.Somashekharaiah for the appellant.

2. The challenge in this writ appeal is directed against judgment and order dated 14.09.2023 of learned Single Judge, whereby learned Single Judge set aside the judgment and award dated 24.11.2018 passed by the Industrial Tribunal, Mysuru in Reference No.1 of 2017.

2.1 The Industrial Tribunal had allowed the said reference and set aside the order of punishment passed against the appellant – workman. The punishment imposed on the appellant was reduction of three incremental stages of basic pay with permanent effect and further to treat the suspension period of workman as no duty period.

3. Noticing the facts in the background, the appellant was a conductor working under the respondent – Karnataka State Road Transport Corporation. While on duty on 11.01.2010, in a bus plying between Mysuru City bus stand to Bannur, it was found by the checking squad, when the bus was inspected, that the

appellant had not issued tickets to a group of eighteen passengers traveling from Cauvery Bridge to Bannur. The appellant – conductor failed to collect the fare of Rs.3/- to be charged from each of the passengers. At that time there were, in all, thirty passengers traveling in the bus.

3.1 For the aforesaid misconduct and charge, a departmental enquiry was conducted against the workman. Finally, the punishment, as above, was imposed by order dated 30.11.2010 by the Disciplinary Authority. Challenging the punishment imposed, the appellant approached the Industrial Tribunal at Mysuru. The Reference was allowed, resulting into filing of writ petition by the Corporation.

3.2 In the writ petition, it was contended that the Tribunal was not justified in setting aside the punishment and that the reference itself could not have been entertained for the reason that there was a delay of more than six years on the part of workman in approaching the Tribunal.

4. Learned Single Judge accepted the contention of the Corporation on the score of delay. Learned Single Judge was of

the view that the reasoning supplied by the Tribunal that the delay would not come in the way of the workman in challenging the punishment order and that no prejudice would be caused to the Corporation, was not justified.

5. It is trite principle that a litigant should approach the court with vigilance and without unreasonable delay. This proposition applies with equal force to industrial disputes. It is well settled that any industrial dispute to be adjudicated should be of the kind which could be considered as an "existing dispute". A dispute which has become stale may not be entertained. Even on general principle, the right to relief would be lost when there is unreasonable and unexplained delay in approaching the court of law.

5.1 In **Prabhakar vs. Joint Director, Sericulture Department and another [(2015) 15 SCC 1]**, the Supreme Court, while considering the case where workman raises dispute belatedly and the delay or laches remain unexplained, observed that in such eventuality it would be presumed that the workman has waived his right or has acquiesced. In that case, the challenge was to the

order of termination by the employer. It was observed that although no limitation is prescribed under the Industrial Disputes Act, 1947 for making reference under Section 10(1) of the Act, the words “at any time” do not admit that the limitation aspect is irrelevant and not applicable in respect of the proceedings to be taken out under the Act. The Supreme Court observed that the policy of the industrial adjudication is that very stale claims should not be encouraged.

5.2 Reverting to the facts of the present case, the order of punishment was passed in the year 2010 against the appellant – workman, the appellant approached the Industrial Tribunal in the year 2017. There is a delay of more than six years. It was for such long period that the appellant sat tight and did not do anything to agitate for his grievance. It could be well said that the dispute had become stale.

5.3 Learned Single Judge was eminently justified to take a view that the said aspect was overlooked by the Tribunal and on that ground alone, the award of the Tribunal was liable to be set aside. The aspect of six years delay in raising the Reference when

weighted with learned Single Judge in setting aside the judgment and award of the Industrial Tribunal and allowing the writ petition, it brooked no error in the facts and circumstances of the case.

6. Even as the aforesaid ground is sufficient to uphold the judgment and order of learned Single Judge, since learned advocate for the appellant harped to take the court to the merits of the case, the court examined the said aspect also in the course of hearing. The Disciplinary Authority while confirming the findings of the Enquiry Officer *inter alia* recorded that it was a group of eighteen passengers to whom the appellant failed to issue the tickets. The defence of the workman that the said group was in drunken state, was not liable to be accepted. If that was so, the appellant was under duty to alight the passengers immediately from the bus. The bus was a local bus where the appellant was expected to issue tickets to the passengers without wasting time upon their embarkment into the bus. The penalty amount was recovered from the head of the team of the passengers, the tickets were taken into custody from the conductor.

6.1 It was rightly observed by the disciplinary authority that it was the duty of the conductor to issue tickets to each of the passengers and it was displayed in bold letters “issue tickets and go forward” which instructions, the appellant - conductor completely disregarded and did not issue tickets to the group of eighteen passengers. The appellant – conductor also signed the charge memo issued against him agreeing to it. These all were the relevant documents and material part of the record before the Enquiring Authorities on the basis of which the proof of the charges was arrived at.

6.2 It was also stated that the appellant was involved in ninety six cases of indiscipline and misconduct in the past and there were two cases which were severe red marked cases.

6.3 For all the foregoing reasons and discussions, even on merits, the punishment imposed on the workman was entirely justified and the Tribunal misdirected itself in setting aside the punishment order.

6.4 Thus, viewed either from the aspect of delay of six years in raising the Reference before the Tribunal, or considered

on the aspect of merits, this court finds that the learned Single Judge was entirely right in setting at naught the judgment and award of the Industrial Tribunal which had set aside the punishment order.

7. The writ appeal stands meritless and it is dismissed.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

AHB
List No.: 1 Sl No.: 47