

IN THE COURT OF PRINCIPAL DISTRICT AND SESSIONS
JUDGE, BAGALKOTE

Present: Sri. N.V. Vijay, B.A. LL.B. (Hons.),
Prl. District and Sessions Judge,

Dated this the 10th day of November, 2025

K.I.D.No.2/2024

Petitioner

: Shrishail S/o Kanteppa Sanagara,
Age: 49 years, Occ: Ex Conductor,
R/o: Giregoan Plot, At Post: Mudhol,
Dist: Bagalkot.

(Sri K.G. Kotwal, Advocate)

Vs.

Respondent

: The Divisional Controller,
N.W.K.R.T.C, Bagalkot Division,
Navanagar, Bagalkot.

(Sri. M.M. Kakhandki, Advocate)

ORDER ON ISSUE NO.1

The claim petition is filed by the petitioner under Section Section 10(4)(A) of Industrial Disputes Act, 1947 praying to set aside the order of dismissal dated 21.08.2024 and in consequence to direct the respondent corporation to reinstate the petitioner into services with full back wages, continuity of service and all other consequential benefits.

2. The brief facts of the case are that the petitioner entered into the services of the respondent corporation as a Conductor in the year 2001. As such ever since the date of joining the service, he was serving quite honestly, satisfactorily and continuously and to the fullest satisfaction of the respondent, till he was wrongly dismissed from services w.e.f. 21.08.2024, on the ground of alleged unauthorized absence from 20.06.2023 to 22.12.2023.

In the petition it is averred that on 04.07.2018 the petitioner discharging his duty at route No.97 Mudhol to Yadavada and while discharging his duty, at about 10.30 he met with severe heart attack resulting initial treatment at Dr. Talati Hospital, Mudhol and Kerudi Hospital, Bagalkot, subsequently, on account of severeness he had been constrained to take treatment at Narayana Hrudayalaya, Bengaluru. For having taken treatment, he even had submitted the medical reports to the respondent officials. The doctor had advised of compulsory rest and treatment.

The respondent had sanctioned Rs.1 lakh towards the medical treatment of petitioner on 04.09.2018 for undergoing operation. The petitioner was under continuous medical treatment and had also submitted number of requisition for change of category due to the illness. The Depot Manager and in charge A.T.I were quite aware of critical health condition of petitioner and had assured of sanctioning of leave. There is no practice of giving acknowledge to the applications tendered. Moreover, the Depot Manager has not served any leave pass book to the petitioner as required under Rule 32 of K.M.T.W Rule. Based on the alleged report of the Depot Manager, the respondent had issued an Articles of Charge to the petitioner.

The petitioner had submitted his reply to the articles of charge. The respondent in a very casual & mechanical manner had ignored the same and order for D.E & thereafter passed the order of dismissal without verifying the material documents.

The respondent without any application of mind and overlooking the C & D regulations has resorted to pass the impugned order of removal deserves to be set aside. Therefore, the enquiry conducted by the respondent corporation is not fair and proper. Hence, the present claim petition.

3. In response to the notice, the respondent corporation has appeared through its counsel and filed objections contending that the petition averments are not bonafide and the same are false, frivolous, vexatious and contrary to the law and facts of the case. It is contended that the enquiry was conducted in fair and proper manner. The petitioner had remained absent to duties for considerable length of time as such the finding of the enquiry officer is in accordance with the terms of service rules. Therefore, there are no reasons to deviate from the findings of the Enquiry Officer. Hence, it is prayed to dismiss the petition.

4. On the basis of above pleadings, this court has framed the issues and ordered to treat the issue No.1 as

preliminary issue and posted the matter for evidence of respondent corporation on issue No.1. The Issue No.1 reads as under:

“Whether the domestic enquiry held against the petitioner is fair and proper ?”

5. The respondent corporation has examined one witness as R.W.1 and got marked the documents as Ex.R.1 to Ex.R.45. One document was marked on behalf of the petitioner as Ex.P.1.

6. Heard the arguments of both sides.

7. My findings to the Issue No.1 is in the “negative” for the following:

REASONS

8. The petitioner had entered into the services of the Corporation as a Conductor in the year 2001 and as such he was serving quite honestly, satisfactorily and continuously till removed arbitrarily. He is innocent and not committed any misconduct of unauthorized absent from 20.06.2023 to 22.12.2023 as alleged. Hence the decision of the Disciplinary Authority under impugned

order should thoroughly be examined and quashed.

9. On the basis records and evidence on record, let me examine whether the enquiry conducted is fair and proper.

10. In the instant case the Enquiry Officer has submitted his report as per Ex.R.35 by holding that the charges framed against the petitioner are proved, has also stated that during the alleged unauthorized absence period it was found that the petitioner was undergone heart surgery. It is also relevant to note that the petitioner by submitting his defence statement as per Ex.R.34 stated the reasons for his absence during the alleged unauthorized absence period. Ex.R.44 is the letter written by the petitioner seeking permission extend his leaves for another 2 weeks along with medical certificate which is also noted by the Enquiry Officer in the report submitted by him. Therefore, the material documentary evidence on record clearly establishes to the fact that during the alleged period of unauthorized absence the petitioner was unwell and therefore he could not attend to his duties.

11. On perusal of the cross-examination of RW-1 it clearly discloses to the fact that at the time of enquiry, RW-1 being the enquiry officer very much knew about the fact that the petitioner had undergone By-pass surgery and as per the documents produced by the petitioner the corporation had sanctioned an amount of Rs.1,00,000/- towards surgery. He has also admitted that in the enquiry report there is no mention about petitioner having undergoing surgery for heart and in spite of being aware of the fact that petitioner being undergone surgery for heart there is no mention in the report for having considered about petitioner having undergone said surgery. He has also admitted that the presenting officer has not cross-examined the petitioner to prove the fact that Ex.R.43 is a created document. He has also admitted that at the time of enquiry the petitioner has given his defence statement and the presenting officer has not cross-examined the petitioner about his defence statement. Thus, the very evidence of RW-1 clearly reveals that the enquiry officer has completely ignored the medical condition and medical

documents of the petitioner prior to submitting a report against the petitioner.

12. In the said circumstances it has to be held that enquiry held against the petitioner is not fair and proper. Accordingly the issue No.1 is answered in the “negative” and pass the following:

ORDER

The Issue No.1 is answered in the negative.

The case is posted for evidence of respondent corporation on rest of the issues.

(Dictated to the Stenographer Grade - I, transcribed and typed by him, script corrected, signed and then pronounced by me in the open court on this the 10th day of November, 2025.)

(N.V. Vijay)

Prl. District and Sessions Judge, Bagalkote