

KAMS060000112023



Ref./8/2023

**ORDERS ON DOMESTIC ENQUIRY**

This is a Reference made by Government of Karnataka with regard to the punishment order issued by the second party in respect of first party by reducing one increment of first party from his basic pay permanently. It is stated that in view of failure of conciliation before the Conciliation Officer, a dispute was raised and accordingly, it was treated as industrial dispute and referred to this Tribunal for adjudication.

2. The claim statement of the first party indicate that on 20.03.2020, while he was discharging his duty as Driver cum Conductor of KSRTC bus bearing No.KA-13-F-2237 at about 7.31 a.m., the checking squad

checked his bus and found that 3 passengers were without tickets. It is stated that by receiving Rs.6/- each from said 3 passengers, the first party has misused Rs.18/- without issuing tickets to the said passengers and thereby caused financial loss to the KSRTC. Hence it amounts to misconduct of the first party. But the first party is contending that on the particular date, while he was driving the abovesaid KSRTC bus towards Malanad Engineering College, Hassan, 3 passengers boarded the said bus at Stadium stop and asked for 3 tickets to Nitturu. Then the first party told that the bus is not going to Nitturu, but it is going to Ganguru and asked them to pay Rs.15/-. At that time, the bus has reached Malanad Engineering College stop and suddenly the checking squad entered the bus and found the above said 3 passengers without tickets. Though the first party narrated the actual facts to the checking squad, but the checking squad collected fine from passengers and booked case against the first party. Per contra, the second party is contending that the first party is trying to hide the real facts to demonstrate that he is innocent, that the facts narrated by the first party are false and that on above said day, i.e., 20.03.2020, the first party received Rs.6/- each from 3 passengers and without issuing tickets to them, he has committed the alleged misconduct. Hence the second party submits that after domestic

enquiry, the first party was found guilty, therefore, the second party passed the punishment order.

3. The first party is contending that the domestic enquiry conducted against him is not fair and proper. That the enquiry officer has not permitted him to engage the services of co-worker and proper opportunity has not been given to cross-examine the management witnesses. It is alleged that the enquiry officer has acted as an agent of second party and given the findings on biased mind in favour of the second party. It is further stated that the disciplinary authority and the second party failed to examine the documentary evidence submitted by the first party in enquiry proceedings.

4. In view of the above contentions of the first party, a Preliminary issue was framed regarding the domestic enquiry vide order dated 05.02.2024, which reads as follows:

**“Whether the Domestic Enquiry conducted against the First Party is fair, proper and valid ?”**

5. With consent of both parties, the documents produced by the second party with regard to the domestic enquiry came to be marked as Ex.M.1 to M.28. The first party has not adduced any oral evidence on domestic enquiry.

6. Heard both sides.

7. My answer to the above preliminary issue is in the **Affirmative** for the following:

**REASONS**

8. It is not in dispute that the first party herein was Driver cum Conductor in the KSRTC bus at the time of alleged incident dated 20.03.2020. It is the contention of the first party that principles of natural justice were not followed in the enquiry proceedings. But the contents of Ex.M.1 to M.28 indicate that, since the beginning of enquiry, the principles of natural justice were adopted and followed and after giving reasonable opportunity to the first party, enquiry report was submitted and then the punishment order was passed against the first party. The Ex.M.1 is an article of charge, which shows that at the initial stage, charges were framed and furnished to the first party about the incident dated 20.03.2020. The Ex.M.2 shows that the first party has submitted explanations for the said charges and pleaded that he is not guilty. The Ex.M.3 shows that an offence memo was issued to the first party immediately after the raid on the bus driven by the first party. The Ex.M.4 shows that as on the date of incident itself, the checking squad issued an offence memo copy. The Ex.M.6 is the Way bill. This document shows that on 20.03.2020, the first party was on duty in the above said KSRTC bus as a driver. The Ex.M.8 is the statement of one Anil Kumar, the passenger who

travelled in KSRTC bus on the particular day. It is very clear from the above documents that after satisfying about the prima facie materials, charge sheet was filed against the first party about the alleged misconduct dated 20.03.2020.

9. The Ex.M.9 is the order passed by the second party by appointing the Asst. Law Officer, as enquiry officer in respect of the allegations made against the first party. Ex.M.10 to 15 are the domestic enquiry notices. The Ex.M.16 is the plea of first party during preliminary enquiry. The first party has pleaded that he has received the copies of documents and understood the charges leveled against him and sought the assistance of co-worker to conduct his case. The above materials reveals that the principles of natural justice were followed by second party.

10. The first party has alleged that he was not given opportunity to engage the services of co-worker in domestic enquiry proceedings, but the contents of Ex.M.17 shows that he has sought permission to engage the services of one Punyendra H.P. to assist him in the domestic enquiry and said Punyendra H.P. was present during the entire enquiry proceedings and at the time of production of the document as per Ex.M.19. Ex.M.20 is the copy of the application filed by the first party for early disposal of the enquiry. The Ex.M.21 is the statement of first party. The Ex.M.22 is the defense statement of the first party. All the above documents clearly indicate that sufficient opportunities were given to the first party and his co-worker to participate in the domestic enquiry and to defend the case of first party properly. The Ex.M.23 is the Report of the enquiry officer. The

Ex.M.24 is the order sheet of the domestic enquiry. The Ex.M.25 is the copy of show cause notice issued to the first party after the above enquiry. The Ex.M.26 is the explanation given by the first party with documents and Ex.M.28 is the punishment order passed by the second party. The contents/recitals of the above documents clearly indicate that principles of natural justice were followed and sufficient opportunities were given to the first party to defend himself and to conduct the case in accordance with law. Therefore, I hold that the domestic enquiry conducted against the first party was fair, valid and proper. Accordingly, I record my finding on Preliminary Issue in the **Affirmative** and proceed to pass the following.

**ORDER**

**The Domestic Enquiry conducted against the first party is fair, proper and valid. Consequently, the case is posted for evidence of first party on merits.**

**Call on 11.09.2024**

*(Dictated to the Stenographer and typed by her over the computer directly, then corrected, print out taken, signed and pronounced by me in the open court on this the 7<sup>th</sup> day of August, 2024 at Hassan)*

sd/-

**Presiding Officer,**

**Industrial Tribunal, Mysuru.**

Camp at Hassan, Karnataka