

KAMS060000552023



BEFORE THE INDUSTRIAL TRIBUNAL AT MYSURU

DATED THIS THE 25TH DAY OF JULY 2025

Present:- Smt. Sandhya Rao P, B.Sc.,LL.B.,
Presiding Officer,

Ref.22/2023

First Party: Sri.Dundappa Putani.
Driver,
Kundapura Depot.
(By Sri. J.Ravindra Naik, Advocate)

-Vs-

Second Party: The Divisional Controller,
KSRTC, Mangaluru Division,
Mangaluru.
(By Sri.Vijay Kumar Suvarna, Advocate)

ORDERS ON PRELIMINARY ISSUE

This is a Reference made by the Government of Karnataka with regard to the punishment order passed by the second party against the first party vide order dated 17.08.2020, by reducing basic pay of the first party at one stage permanently and to treat the period of suspension as 'not on duty'.

2. The first party in his claim statement has contended that the enquiry conducted by the enquiry officer is contrary to the

principles of natural justice and further that, the enquiry officer while conducting the enquiry has not followed the KSRTC C & D regulations. That apart, it is also contended that, prior to imposing punishment, the inquiry officer had not provided any opportunity to the first party, to submit his say in the matter. Accordingly, it is submitted by the first party that, the domestic enquiry was not fair, proper and valid.

3. Per contra, the second party has submitted that the domestic enquiry was conducted by appointing an independent enquiry officer who had conducted the enquiry as per the C and D regulations of the corporation and also by following all the rules of natural justice. It is only thereafter that the enquiry officer submitted the report of enquiry to the higher authorities. On receipt of the said report, the second party management had before passing the punishment order issued the show cause notice to the first party and by following the principles of natural justice and after looking into the history sheet of the first party, had issued the punishment order against the first party workmen. Thus the enquiry conducted and the

punishment order passed by the second party management is fair and proper.

4. In view of the aforementioned rival contentions of the parties raised in respect of the domestic enquiry, the following preliminary issue came to be framed :

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

5. When the matter was posted for evidence of second party on preliminary issue, the second party examined the enquiry officer as MW.1 and got marked Ex.M.1 to M.15 on its side. The first party on the other hand examined himself as WW.1.

6. Heard the arguments of both parties and perused the materials on record.

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

REASONS

8. A domestic enquiry was conducted against the first party to ascertain the allegation that, on 23.06.2019, the first party work man while working he was working as a driver in the vehicle bearing registration No.F.3406, Bengaluru,-Mysore-Mangaluru, route No.21-22, was found to be in unauthorised possession of excess cash of Rs.310/-. Thereafter, upon receipt of the enquiry report, the second party has passed the impugned punishment order as stated supra.

9. In order to prove that the aforesaid domestic enquiry conducted by it was fair and proper, the second party had before this Tribunal gotten examined the Enquiry officer, Sri M.Udaykumar, as MW.1 and got marked Ex.M.1 to M.15.

10. A perusal of evidence of MW.1 and the documents brought on record indicate that as per Ex.M.8, the second party had issued charge sheet to the first party. On receipt of the said charge sheet, the first party, submitted his reply to the charges against him as per Ex.M.9. As the second party was not satisfied with the reply of the first party, the second party had

vide Ex.M.10, appointed MW.1 as the enquiry officer. Notice regarding enquiry was issued to the first party as per Ex.M.11. The Preliminary enquiry was conducted by the enquiry officer as per Ex.M.13 and during the said preliminary enquiry, the first party admitted receiving of notice of enquiry and replying to the same. He further submitted that, he has understood the charges and pleaded guilty to the same. Further, the first party submitted his charge acceptance letter as per Ex.M.12 and submitted that he does not intend to cross-examine the management witness, give his defence statement or lead evidence and therefore prayed for closing of the enquiry. Thereafter, MW.1 submitted his enquiry report to the disciplinary authority as per Ex.M.16.

11. During the course of cross-examination of MW.1, by the first party, it was vaguely suggested to him that he had not followed the KSRTC C & D, Regulations, while conducting the enquiry and that the first party workman had not pleaded guilty to the charges against him. Apart from the same no specific suggestions were put across to MW.1 with regard to the

procedural irregularities or with regard to the opportunities which were not extended to the first party in order to prove his case.

12. After the completion of the evidence of the second party the first party examined himself as WW.1. However, in his affidavit in lieu of examination in chief, he has not specifically stated as to how he was denied a fair and proper opportunity to put forth his defence before the enquiry officer. During the course of cross-examination, WW.1 though admitted to have participated in the enquiry proceedings, he denied having pleaded guilty and denied knowing the documents wherein he had put his signature. However, the same appears to be an after thought, as he has not alleged as to how he was denied opportunity before the enquiry officer.

13. From the evidence of MW.1 and the documents brought on record during the evidence, it is apparent that the enquiry officer had conducted the enquiry in accordance with the provisions of C & D Regulations and the principles of natural

justice by providing all necessary documents and opportunities to the first party to putforth his case. The first party was not able to elicit anything to the contrary during the course of cross-examination of MW.1, nor has he led evidence which would otherwise suggest that he was denied a fair and proper opportunity and that he had not pleaded guilty of the charges against him.

14. Under these circumstances, this Tribunal holds that the second party has proved that the domestic enquiry conducted by the enquiry officer was fair and proper. Accordingly, this Tribunal answers the Preliminary Issue in the **Affirmative** and proceeds to pass the following-

ORDER

The Domestic Enquiry conducted against the first party is fair, proper and valid.

The allegations regarding perversity in findings of enquiry officer will be adjudicated while deciding the case on merits.

**Consequently, the case is posted for
evidence of first party on merits.**

*(Dictated to the Stenographer and typed by her over the computer directly, corrected,
print out taken, signed and pronounced by me in the open court on this the **25th day
of July, 2025**)*

sd/-
(SANDHYA RAO P)
Presiding Officer,
Industrial Tribunal, Mysuru