

KAMS060000872023



BEFORE THE INDUSTRIAL TRIBUNAL AT MYSURU

DATED THIS THE 4th DAY OF SEPTEMBER 2025

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

Ref.No.48/2023

First Party: **Sri. S.Naganna**,
Driver,
Vijayanagar Unit
(By **Sri. B.S.Suresh Rao**,
Authorized Representative)

-Vs-

Second Party: **The Divisional Controller**,
KSRTC, Mysuru Urban Division,
Mysuru.
(By **Sri.A.B.Nagaraju**, 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 04.09.2020, by reducing the basic pay of first party by three stages permanently and to treat the period of suspension as 'not on duty' and he is not entitled for any monetary benefit for the said period.

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 contended 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 K.Roopa, Assistant Statistical Officer, KSRTC, Mangaluru as MW.1 and got marked Ex.M.1 to M.41 on its side. The first party submitted that he has no evidence to lead on preliminary issue.

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. The first party while he was working as a driver of the bus bearing Reg.No.KA-09-F-3981, on route No.133/2, City Bus stand to Metagalli, on 08.12.2018 at about 4:30p.m., when the vehicle was plying on the road in front of the P.K. Sanitorium, and entering the main road, the first party failed to notice a 49 year old lady who had gotten down from the bus and walking had dashed the bus against her resulting in her falling down, sustaining grievous injuries and later succumbing to the said injuries. The said act of the first party had caused financial loss to the second party. Hence, the second party had initiated a domestic enquiry to look into to the said misconduct of the second party. The enquiry officer returned the finding of 'misconduct proved'. Upon receipt of the enquiry report the 2nd party passed the punishment order as stated supra as against the 1st party.

9. In order to prove that the aforesaid domestic enquiry conducted by it was fair and proper, the 2nd party had before this Tribunal gotten examined the Smt.K.Roopa, Enquiry officer as MW.1 and got marked Ex.M.1 to M.41.

10. A perusal of evidence of MW-1 and the documents brought on record indicate that as per Ex.M-24, the second party had issued articles of charges to the first party. On receipt of the said articles of charge, the first party had requested the second party vide his letter at Ex.M-25, to furnish documents related to the articles of charges to enable him to submit his reply. Accordingly, the documents were furnished to the first party and the first party submitted his reply to the charges against him as per Ex.M-26. As the second party was not satisfied with the reply of the first party, the second party had vide Ex.M-27, appointed MW-1 as the enquiry officer. Notices regarding enquiry was issued to the first party as per Ex.M-28. The Preliminary enquiry was conducted by the enquiry officer as per Ex.M-29 and during the said preliminary inquiry, the first party admitted receiving of notice of enquiry and replying to the same

and further pleaded not guilty to the charges alleged against him. The first party as per Ex.M-31 sought for appointment of his colleague Sri.M.Vijaykumar, to help him in defending his case and the same was permitted. Thereafter, as per Ex.M-30, the evidence of the reporter Sri. Prakash C. R., was recorded on behalf of the Corporation and opportunity was given to the first party to cross-examine the said witnesses. The statement of the first party was recorded as per Ex.M-35 and the first party submitted his defence statement as per M-33. Thereafter, upon completion of the enquiry MW-1, submitted his enquiry report to the disciplinary authority as per Ex.M-37.

11. During the course of cross-examination of MW-1, by the first party, except for vaguely suggesting, that the enquiry was not conducted in a proper manner by providing all necessary opportunities to the first party and in the manner prescribed under the C & D Regulations, the first party was unable to point out the specific flaws in the conducting of the enquiry by the enquiry officer, which indicated lack of fairness and denial of opportunity to defend his case.

12. After the completion of the evidence of the second party the first party has chosen not to lead any evidence in support of his contention that he was not provided with a fair and proper opportunity to put forth his defence during the course of enquiry.

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.

14. Furthermore, the counsel for the respondent in support of his contention that the domestic enquiry was fair and proper has relied upon the decision in the case of ***Uttarakand Transport Corporation & Ors vs Hira Singh Parihar, 2020 LLR 122*** and contended that in the said decision the Apex Court had held that once, the delinquent employee was given

sufficient opportunity to cross-examine the complainant then the enquiry was required to be held as fair and proper. I have meticulously perused through the said decision. If the principle laid down therein is applied to the facts and circumstances of the present case, then it is seen that even in the present case, the first party was given sufficient opportunity to cross-examine the complainant and therefore the principle laid down in the said decision was squarely applicable to the instant case. 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 **4th day of
September, 2025**)*

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