

KAMS060001492023



Ref.103/2023

**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 28.11.2020 by withholding one annual increment of the first party with cumulative effect and to treat the period of suspension as 'not on duty'.

2. In the claim statement, the first party has contended that the enquiry officer has not conducted the enquiry as per C & D Regulations of KSRTC, that he has not followed the principles of natural justice, that he has not permitted to engage the services of co-worker to

participate in the enquiry proceedings and no proper opportunity has been given to cross-examine the management witness. Further it is alleged that the enquiry officer has acted as an agent of the second party and has given findings in a biased mindset and without considering the evidence of the witness properly. Accordingly, the first party submits that the domestic enquiry was not fair, proper and valid. Per contra, the second party has submitted that the domestic enquiry was conducted as per C & D Regulations of KSRTC and principles of natural justice and sufficient opportunity was given to the first party. The domestic enquiry is fair and proper. Hence, the allegations of the first party are baseless.

3. In view of the rival contentions of the parties in respect of domestic enquiry, a preliminary issue was framed as under:

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

4. In this case, on 05.02.2025, the counsel for first party has submitted no objection for marking the documents of the second party with consent. Hence, the documents produced by the first party were marked as Ex.M1 to M.20. Thereafter, both counsel submitted that they have no oral evidence on preliminary issue.

5. I have heard the arguments on both sides.

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

**REASONS**

7. In this case, the first party workman has challenged the punishment order passed by the disciplinary authority of the second party on 28.11.2020 vide Ex.M.20. The chargesheet marked vide Ex.M.1 shows that on 12.02.2020, the first party workman was discharging his duty as conductor in bus No.F-1736 in route No.15/16 (Belavadi-Holenarasipura), at that time, at about 18.08 hours, at Forest cross, the said bus was checked by checking squad and noticed that there were only 5 passengers, out of which, 2 passengers travelling from Belavadi to Jodigubbi were not issued with any tickets and bus fare of Rs.9/- each was not collected from the said passengers and thereby the first party tried to cheat the second party Corporation and committed serious misconduct. In fact, the first party replied to the said articles of charge vide Ex.M.2, but domestic enquiry was ordered on the basis of report submitted by checking squad vide Ex.M.3. The checking squad has seized the waybill vide Ex.M.5 and issued offence memo vide Ex.M.4, collected fine from 2 ticketless passengers vide Ex.M.6. Further, enquiry officer was appointed vide Ex.M.8, who issued notices vide Ex.M.9 and after preliminary enquiry

vide Ex.M.11, the evidence was recorded vide Ex.M.10 and with the support of co-worker, cross-examination of the management witness was done vide Ex.M.12. Thereafter the first party workman was examined by the enquiry officer by obtaining some clarifications vide Ex.M.13 and he was given opportunity to submit his defence statement vide Ex.M.14 and finally, the enquiry officer has submitted his report/findings as per Ex.M.15. The entire proceedings of domestic enquiry reflects in Ex.M.16-Order sheet. The above documents clearly indicate that the C & D Regulations of KSRTC and principles of natural justice were followed in the present domestic enquiry.

8. It is relevant to note that though serious allegations were made against the enquiry officer, but by giving consent for marking the documents, the first party workman has given up the allegations made against the enquiry officer. Further, he has not chosen to adduce evidence on preliminary issue to substantiate his allegations. Under these circumstances, I hold that the second party has proved that the domestic enquiry conducted by the enquiry officer was fair and proper. Therefore, I record my answer to the 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.**

**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, Call on 10.06.2025.**

**sd/-  
Presiding Officer,  
Industrial Tribunal, Mysuru.**