



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF JULY, 2025

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C M JOSHI

WRIT APPEAL NO. 1222 OF 2024 (L-KSRTC)



BETWEEN:

1. SRI MALURAPPA
S/O RAMAIAH, AGED ABOUT 61 YEARS,
R/AT ERAPPANAHALLI VILLAGE,
DODDAGUBBI POST,
BENGALURU EAST TALUK-560 077.

...APPELLANT

(BY SRI. NAIK V S.,ADVOCATE)

AND:

1. BANGALORE METROPOLITAN TRANSPORT
CORPORATION
CENTRAL DIVISION, CENTRAL OFFICES, K.H. ROAD,
SHANTINAGAR, BENGALURU-560 027

...RESPONDENT

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO ALLOW THE WRIT APPEAL BY
SETTING ASIDE THE ORDER DATED 12.02.2024 PASSED BY
THE LEARNED SINGLE JUDGE OF THIS HONBLE COURT IN
WP No. 58582/2017 (L-KSRTC) AND DISMISS THE WP No.
58582/2017 (L-KSRTC) FILED BY THE RESPONDENT AND





PASS SUCH OTHER ORDER OR ORDERS AS THIS HONBLE COURT DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present intra-court appeal, impugning an order dated 12.02.2024 passed by the learned Single Judge in W.P.No.58582/2017 captioned 'Bangalore Metropolitan Transport Corporation v. Malurappa'.

2. The respondent **[BMTC]** had filed the said writ petition, impugning the award dated 18.03.2016, passed by the learned Labour Court, setting aside the order dated 27.07.2005, terminating the appellant's employment and directing his reinstatement, *albeit*



without backwages, but with continuity of service along with reduction of three annual increments.

3. The learned Labour Court found that the misconduct on the part of the appellant was proved. However, was of the view that the punishment of dismissal from service as imposed, was harsh.

4. The appellant had procured appointment with the BMTC on the basis of a false certificate regarding his educational qualifications. The Transfer Certificate produced by the appellant was to the effect that he had completed his primary school education till IX Standard. However, he had completed his education only upto I Standard. The minimal qualifications required for appointment of a *Badli driver* secured by the appellant, was completion of schooling till IV Standard.

5. In the circumstances, BMTC claimed that the punishment imposed was commensurate with the appellant's misconduct and could not be termed as disproportionate. The said contention was accepted by the learned Single Judge and the learned Labour Court faulted for interfering with the punishment imposed by the BMTC on the appellant.



PREFATORY FACTS:

6. The appellant was appointed as a *Badli driver* with BMTC on 29.08.1988. At the time of his appointment, he had produced a Transfer Certificate [Bearing No.T.C.No.18/85-86], certifying that he had completed primary schooling till IX Standard. The said certificate was found to be forged. Accordingly, the BMTC issued Articles of Charge dated 30.06.2001 and appointed an Enquiry Officer to enquire into the allegation of misconduct against the appellant. The Enquiry Officer examined the Security Officer as well as the Head Mistress of Yerappanahalli Government Higher Primary School, Yerappanahalli and found that the charge leveled against the appellant was established.

7. A copy of the report submitted by the Enquiry Officer was furnished to the appellant and he was called upon to respond to the same. The Disciplinary Authority / BMTC, accepted the findings of the Enquiry Officer and dismissed the appellant from its service on 27.07.2005.

8. The appellant raised an industrial dispute under the provisions of Section 10 (1)(c) and (d) of the Industrial Disputes



Act, 1947. The BMTC contested the said dispute and filed its objections. It was inter alia contended by the appellant that the enquiry was not fair and proper. The disputes raised were referred to the learned Labour Court.

9. By an order dated 18.03.2016 in Ref No.15/2010, the learned Labour Court passed an award setting aside the dismissal order dated 27.07.2005 and directing that the appellant be reinstated with continuity of service and consequential benefits, but without backwages.

10. The BMTC filed a writ petition being W.P.No.9752/2012 in this Court, impugning the award dated 18.03.2016. This Court examined the record and found that the Head Mistress of the School [Smt. A.S. Sudhamani], had been examined by the Enquiry Officer and she had proved that the Transfer Certificate furnished by the appellant was a fake document. The Court noted that the learned Labour Court had proceeded on the basis that the Head Mistress of the School had not been examined by the Management. This Court faulted the learned Labour Court in passing the award dated 18.03.2016, without examining the



original records and, by an order dated 23.11.2015, disposed of the W.P.No.9752/2012 by restoring the reference [Reference No.15/2010] before the learned Labour Court.

11. The learned Labour Court, once again considered the following issues referred to by the Government:

"1. Whether Sri. Malurappa, son of Remaiah, 47, years, Driver working in the Management of Bangalore Metropolitan Transport Corporation represented by the Divisional Controller, Shanthinagar, Bengaluru, is justified in raising an industrial dispute after the delay of 4 years from the date of dismissal which was issued by the Divisional Controller on 27.07.2005?

2. If justified, whether Management of Bangalore Metropolitan Transport Corporation represented by the Divisional Controller, Shanthinagar, Bengaluru is justified in holding that Sri. Malurappa, son of Remaiah, 47 years, Driver is not entitled for the benefit of Gratuity as per the order dated 27.07.2005 bearing N.BMTC / CO / EST/ C25/ 2554 / 2005-06 on the ground that the workman submitted false School Transfer Certificate for securing employment?"

The learned Labour Court also framed the following additional issue:



"1. Whether 2nd party proves that domestic enquiry held against 1st party is fair and proper?"

12. The learned Labour Court found the first issue in favour of the appellant. The court found that there was reasonable ground for the appellant to have delayed in raising the industrial dispute.

13. Insofar as the second issue is concerned, the learned Labour Court found that the misconduct on the part of the appellant was proved; however, the punishment imposed was harsh. Accordingly, the learned Labour Court passed an order dated 18.03.2016. The operative portion of the said order reads as under:

"ORDER

The Reference petition filed by the first party is hereby allowed in part.

The order of the second party dated 27.07.2005 terminating the first party workman from its service is hereby set aside.

The II party / Corporation is directed to reinstate the first party workman into its employment within one month from the date of publication of this award, without back



wages, with continuity of service, with reduction of three annual increments with cumulative effect.

Parties to bear their own cost.

Send copy of this Award to the Government for publication.

The Government is directed to publish the award in such manner, as it thinks fit within a period of 30 days from the date of receipt of the same.

The Government is directed to intimate the publication of the award to all the parties to the case by registered post acknowledgement due, without fail."

14. Aggrieved by the same, the BMTC preferred a writ petition being W.P.No.58582/2017, which was allowed by the learned Single Judge in terms of the impugned order.

REASONS AND CONCLUSIONS

15. The learned counsel appearing for the appellant has challenged the impugned order on three fronts.

16. First, he submits that the learned Single Judge failed to appreciate that in terms of the Circular dated 02.08.1983 issued by



the BMTC, the services of an employee could not be terminated on the ground of suppression when he has rendered considerable length of service after confirmation.

17. Second, he contended that since the appellant had served the BMTC for over 17 years, his termination from service was not justified.

18. Third, he submitted that the issue involved is covered in favour of the appellant by a decision of the Supreme Court in ***KVS Ram vs. BMTC : 2015 (12) SCC 39.***

19. The circular as referred to by the counsel for the appellant, is set out below:

*"KARNATAKA STATE ROAD TRANSPORT
CORPORATION, CENTRAL OFFICES, BANGALORE*

No.KST:CO:AIM:RULES: 97/605/83-94 Dt. 2-8-1983

CIRCULAR No.537

(issued by Rules Section)

*Sub: Guidelines relating to determination of cases arising
out of violation of Regulation 4(9) of KSRTC (Cadre and
Recruitment) Regulations, 1982 - disposal thereof -*



Regulation 4(9) of KSRTC (Cadre and Recruitment) Regulations 1982, provides that any person who has given a false / wrong information in the application will be disqualified and if appointed and found at a later date to have given false information, his services will be liable to be terminated. This provisions embraces the cases of select list candidates who had gained employment by suppressing information relating to their previous employment and reasons for their discharge / removal in KSRTC as the case may be.

Instances are brought to my notice that, Unit Head by recouring to this provision and terminating the services of employees even where they had rendered considerable length of service after confirmation on the ground that the employee had failed to disclose the particulars of past service. It is also observed that in majority of cases there is no reasonable proximity between the order of termination and alleged suppression and the orders are not contemporaneous.

With a view to securing a common understanding in harmonious interpretation of this provision and promote security of tenure to the employees confirmed by due process, the following guidelines are issued to the appointing Disciplinary Authority:

1. That the services of such employees should not be terminated if such alleged suppression is not detected before they are confirmed on completion of probation or the extended period of probation as the case may be.



2. That discharge simplicitor cannot be treated as a disqualification nor failure to mention this fact in future applications treated as suppression unless such discharge or removal is for unsuitability or unsatisfactory performance of duties.

*Sd/-
(R. JAGANNATHAN)
Managing Director."*

20. A plain reading of the said circular indicates that it does not contemplate a case where an ineligible employee has secured his appointment by furnishing a forged document to satisfy his eligibility condition. But for the forged document produced by the appellant, certifying his educational qualifications, he would be ineligible for being appointed as a *Badli driver*.

21. The said circular is for addressing cases where there is some suppression of information on the part of the employee or failure to disclose particulars of the past services. We concur with the decision of the learned Single Judge that the afore-mentioned Circular, would have no application to the facts of the present case and the learned Labour Court, had misread the same.



22. Given the nature of the allegation against the appellant, we are unable to accept that the punishment of dismissal from service is disproportionately excessive or one that would shock the conscience of the Court. In ***Lucknow Kshetriya Gramin Bank v. Rajendra Singh*** [***Lucknow Kshetriya Gramin Bank v. Rajendra Singh: (2013) 12 SCC 372***], the Supreme Court had summarized the law as under:

“19. The principles discussed above can be summed up and summarised as follows:

19.1. When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.

19.2. The courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.

19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.



19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.

19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable."

23. In the given facts of the case, the punishment imposed on the appellant pursuant to the disciplinary proceedings conducted by the BMTC could not be interfered with on the ground that it was unduly harsh or disproportionately excessive.



24. In ***Jainendra Singh v. State of U.P.***: (2012) 8 SCC 748, the Supreme Court has observed as under:

“29.3. When appointment was procured by a person on the basis of forged documents, it would amount to misrepresentation and fraud on the employer and, therefore, it would create no equity in his favour or any estoppel against the employer while resorting to termination without holding any inquiry.”

25. The decision of the Supreme Court in ***KVS Ram vs. Bangalore Metropolitan Transport Corporation*** : 2015 (12) SCC 39, is also inapplicable in the facts of the present case. In that case, the employee was appointed on 03.09.1985. He was served with the Articles of Charge on 03.09.1990 and an enquiry was initiated on 15.07.1992. The enquiry proceedings continued for an inordinately long period of time. The Enquiry Officer submitted his report almost after a decade, on 13.03.2002. Pursuant to the said report, the BMTC terminated the services of the employee on 01.10.2004, which was more than 14 years after the Articles of Charge had been served on the concerned employee. In the given facts, the Supreme Court observed as under:

“9. It is settled proposition of law that while considering the management's decision to dismiss or terminate the services of a workman, the Labour Court can



interfere with the decision of the management only when it is satisfied that the punishment imposed by the management is highly disproportionate to the degree of guilt of the workman concerned. Considering the delay in completing the enquiry and the age of the appellant and the fact that similarly situated workmen were reinstated with lesser punishment, the Labour Court ordered reinstatement, in exercise of its discretion under Section 11A of the Industrial Disputes Act."

26. It is clear from the above, that the Court was persuaded to allow the employee's appeal *inter alia* for the reason that there was an inordinate delay in completing the enquiry. In the present case, the Articles of Charge was issued to the appellant on 30.06.2001. Thereafter, the disciplinary proceedings were commenced and an enquiry was conducted. The findings of the Enquiry Officer were furnished to the appellant in the year 2003. The appellant was further given an opportunity to respond to the enquiry report and he submitted a response to the same. The records were thereafter placed before the Disciplinary Authority. The Disciplinary Authority accepted the report and the services of the appellant were terminated on 27.07.2005. Thus, there was no delay in conducting the disciplinary enquiry.



**NC: 2025:KHC:28717-DB
WA No. 1222 of 2024**

27. We find no grounds to interfere with the impugned order. The appeal is accordingly dismissed.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C M JOSHI)
JUDGE**

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List No.: 1 Sl No.: 17