

(2012) 06 GAU CK 0077
In the Gauhati High Court

Dinomoni Singh, S/o.Sri Gunamoni Singh, Vill.- Ramnagar,
Tarapur, PS – Silchar -3, Dist.Cachar.

APPELLANT

Vs

State of Assam represented by the Commissioner and the
Secretary to the Govt.of Assam, Transport Department,
Dispur.

RESPONDENT

Date of Decision : 20-06-2012

Acts Referred:

Citation : (2012) 06 GAU CK 0077

Hon'ble Judges : B.K.Sharma, J

Bench : Single Bench

Advocate : For the petitioner : Ms. B. Rajkhowa, Adv.??For the Respondents :
Ms. U. Baruah, SC, ASTC., Advocates appearing for Parties

Judgement

1. Heard Ms. B. Rajkhowa, learned counsel for the petitioner. Also heard Ms. U. Baruah, learned Standing Counsel, ASTC.
2. The petitioner, who was a bus Conductor under the respondent Corporation, is aggrieved by the Annexure8 order dated 24.8.2001, by which the Managing Director of the respondent Corporation (Disciplinary Authority) removed him from service pursuant to a departmental proceeding, in which the charge levelled against the petitioner was found to have been established. The charge against the petitioner was divided into four parts, i.e. dereliction of duty ; temporary misappropriation of ASTC revenue ; breach of trust while issuing tickets to the passengers ; repeated involvement in misappropriation of ASTC revenue and gross misconduct.
3. The particular misconduct, in terms of which the charge sheet was issued, was that on 23.9.1999 while the petitioner was performing the duty of Conductor in ASTC Vehicle No. AS20/0562, the bus was stopped by an Inspection party consisting of Station Superintendent, UDA, an Enforcement inspector and on entering the bus, it was found that there were 10(ten) passengers without any ticket. It was alleged that although the petitioner was in possession of the ticket

book but he did not issue any ticket to those 10(ten) passengers, which caused revenue loss to the respondent corporation. The amount involved was Rs. 48/. The Inspection party issued the tickets to the passengers and also imposed a fine on the petitioner.

4. The defence plea was that the petitioner was about to issue tickets to those ten passengers but before he could issue the tickets, the inspection party entered into the bus and charged the petitioner of allowing the passengers to travel without the ticket and thereby he caused revenue loss to the respondent corporation.

5. Ms. Rajkhowa, learned counsel for the petitioner submits that having regard to the long length of service of the petitioner, the disciplinary authority ought to have considered the case of the petitioner with compassion. This submission is made by her without any prejudice to the plea of the petitioner and he was not guilty of the charge. On the other hand, Ms. U. Baruah, learned Standing Counsel, ASTC, submits that the petitioner having caused misappropriation of revenue to the ASTC and also having regard to his past conduct as reflected in the charge sheet itself, the disciplinary authority rightly imposed the penalty of removal from service.

6. After arguing the matter at some length and with the insistence that even if the petitioner is held to be guilty of the charge that was levelled against him, the facts and circumstances will not justify the extreme penalty of removal from service. The learned counsel for the petitioner seeks liberty of the Court to prefer a departmental appeal to the Board of Directors headed by the Chairman, ASTC.

7. Having regard to the facts and circumstances involved in the case, I am of the considered opinion that ends of justice will be met if the liberty, as prayed for, is granted to the petitioner, without however, expressing any opinion on merit of the case of the petitioner.

8. In view of the above, the writ petition is disposed off granting liberty to the petitioner to prefer a departmental appeal before the Chairman, ASTC, urging all the grounds. In the event of preferring such an appeal within one month, the said authority may dispose of the same in accordance with law, as expeditiously as possible. While disposing of the appeal, the authority may also consider the plea of the petitioner that at best he may be awarded the penalty of compulsory retirement instead of dismissal from service, which will entitle him some benefit and will go in long way to save his family from financial hardship.

9. There shall be no order as to costs.