
(1997) 11 SC CK 0106

In the Supreme Court Of India

Case No : Civil Appeal No. 206 of 1988

Director, State Transport, Punjab and Another

APPELLANT

Vs

Gurdev Singh and Another

RESPONDENT

Date of Decision : 04-11-1997

Acts Referred:

Constitution of India, 1950 — Article 136

Citation : (1998) 79 FLR 791 : (1998) 4 JT 352 : (1999) 1 RLW 9 : (1998) 2 SCC 159 : (1998) SCC(L&S) 512

Hon'ble Judges : S. B. Majmudar, J; M. Jagannadha Rao, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The only question which falls for consideration in this appeal at the instance of the Director, State Transport, Punjab and another is as to whether the High Court was justified in taking the view that the order of dismissal as passed by the Labour Court on inquiry held before it related back to the date of the original order of dismissal passed by the Management or operated prospectively from the date of the order of the Labour Court.

2. A few relevant facts relating to this appeal may be noted at the outset. After a domestic inquiry the appellants terminated the services of Respondent 1—workman who was at the relevant time, working as a conductor on one of the buses belonging to the appellants. The termination order was challenged by Respondent 1 before the Labour Court. The Labour Court found that the domestic inquiry was defective. It therefore, permitted the appellants to lead evidence to justify their action. It was held by the Labour Court ultimately on the basis of the evidence led before it that Respondent 1 was not entitled to any relief and the action of the appellants was justified in terminating his services on the ground of serious misconduct of embezzlement of funds of the appellant-State. Respondent 1 thereafter carried the matter to the High Court by way of a writ petition. The High Court by the impugned judgment accepted the finding of the Labour Court

that the termination was justified. However, it held that the termination of the services of Respondent 1 would become effective only from the date of the award and therefore, Respondent 1-workman would be entitled to wages from the date of termination till the date of the award. The aforesaid decision of the Division Bench of the High Court has resulted in this appeal on the grant of special leave under Article 136 of the Constitution. While granting leave this Court had stayed operation of the High Court judgment.

3. When this appeal reached for final hearing before us, no one appeared to support this appeal on behalf of the appellants. However, we find that the question raised in this appeal is squarely covered by two decisions of this Court. The first decision has been rendered by a Bench of two learned Judges in the case of R. Thiruvirkolam Vs. Presiding Officer and another, . Another decision has been rendered by a Bench of three learned Judges of this Court in the case of Punjab Dairy Development Corporation Limited and another, etc. Vs. Kala Singh, etc., . It has been held in the aforesaid decisions relying on the earlier Constitution Bench judgment of this Court in the case of P.H. Kalyani Vs. Air France Calcutta, that if an employee is terminated as a result of a domestic enquiry which is found defective by the Labour Court and if the Labour Court on evidence led before it, upholds the decision of the termination of the workman, the termination would relate back to the date of original order of termination and would not operate only from the date of award of the Labour Court. In view of these decisions of this Court, therefore, this appeal has to be allowed. In the result, the appeal succeeds and is allowed. It is held that Respondent 1 is not entitled to any back wages from the date of the original order of termination i.e. 12-3-1982 till the date of the award of the Labour Court i.e. 21-4-1986. Ordered accordingly. No costs.