

**(2010) 09 GUJ CK 0091**  
**In the Gujarat High Court**

**Case No :** Special Civil Application No. 894 of 2006

Divisional Controller

APPELLANT

Vs

Secretary and Another

RESPONDENT

**Date of Decision :** 08-09-2010

**Acts Referred:**

Constitution of India, 1950 — Article 227  
Industrial Disputes Act, 1947 — Section 11A

**Citation :** (2010) 09 GUJ CK 0091

**Hon'ble Judges :** Mukesh R. Shah, J

**Bench :** Single Bench

**Advocate :** Avani S. Mehta, for the Appellant; Hasit H. Joshi, for Respondent 2, for the Respondent

## **Judgement**

M.R. Shah, J.—By way of this petition under Article 227 of the Constitution of India, the petitioner - Gujarat State Road Transport Corporation has prayed for an appropriate writ, order and/or direction, quashing and setting aside the impugned judgment and award dated 10/08/2005 passed by Industrial Tribunal, Rajkot in Reference I.T. No. 82 of 2001, by which, the Industrial Tribunal has partly allowed the said Reference in exercise of power u/s 11-A of the Industrial Disputes Act and interfered with the order of punishment imposed by the Appellate Authority of withholding of increments for five years with future permanent effect, by imposing punishment of withholding of increments for two years without future permanent effect and to pay 50% backwages.

2. Considering the facts and circumstances of the case and charge and misconduct proved against the respondent of misbehaving with the passengers for the purpose of putting luggage in the Bus, more particularly in cabin of the Driver and considering the fact that respondent did not participate in the Departmental Inquiry, this Court suggested that the impugned judgment and award passed by Industrial Tribunal of imposing punishment of withholding of increments for two years without future permanent effect, cannot be sustained

and it was suggested that instead of punishment of withholding of increments for two years without future permanent effect, it can be substituted by imposing punishment of withholding of increments for two years with permanent future effect, learned advocates appearing on behalf of the respective parties have agreed and there is broad consensus between the learned advocates appearing on behalf of the respective parties and they do not invite any further reasoned order.

3. In view of the above broad consensus between the learned advocates appearing on behalf of the respective parties, the petition succeeds in part and the impugned judgment and award dated 10/08/2005 passed by Industrial Tribunal, Rajkot in Reference I.T. No. 82 of 2001 is hereby modified to the extent by imposing punishment of withholding of increments for two years with future permanent effect. Rest of the impugned judgment and award dated 10/08/2005 passed by Industrial Tribunal, Rajkot in Reference I.T. No. 82 of 2001 is hereby confirmed. The respondent shall be entitled to all consequential benefits, which shall be paid by the petitioner at the earliest. Rule is made absolute to the aforesaid extent only. No costs.