

(2010) 08 GUJ CK 0099

In the Gujarat High Court

Case No : Special Civil Application No. 15710 of 2005

Divisional Controller

APPELLANT

Vs

Secretary, S.T. Employee Union

RESPONDENT

Date of Decision : 18-08-2010

Acts Referred:

Citation : (2010) 08 GUJ CK 0099

Hon'ble Judges : K. S. Jhaveri, J

Bench : Single Bench

Advocate : Vidhi Sadhan and Sejal K. Mandavia, for the Appellant; J.S. Brahmbhatt, for the Respondent

Judgement

K.S. Jhaveri, J.—By way of present petition, the petitioner has prayed to quash and set aside the order dated 19.07.2004 passed by the learned Industrial Tribunal, Ahmedabad in Reference (I.T.) No. 254 of 1998 whereby the reference of the respondent was allowed and the order dated 04.03.1995 passed by the petitioner-Corporation has been quashed and set aside and the order dated 30.04.1991 passed by the petitioner-Corporation was upheld holding that the reviewing authority of the petitioner-Corporation has no power to review the case and enhance the punishment.

2. The respondent was working as a Conductor in the petitioner-Corporation. It is alleged that he was not collecting the fair and also not issuing the tickets to passengers. The respondent was issued charge-sheet and after holding departmental inquiry in accordance with law and as per the procedure prescribed in the Discipline and Appeal Procedure for the G.S.R.T.C. Employees, the competent authority of the Corporation vide order dated 30.04.1991 imposed punishment to the effect that his 10 days salary wages were recovered in five installments in every month. Thereafter, the reviewing authority after issuing show cause notice imposed punishment of dismissal. The respondent had filed first appeal which was rejected and in the second appeal, the appellate authority has reduced the punishment imposed by the reviewing authority and the

respondent-workman was reinstated in the service with continuity of service by placing him on minimum pay scale. The respondent therefore, raised a dispute by way of reference before the Labour Court being Reference No. 254 of 1998. The Labour Court has quashed and set aside the order dated 04.03.1995 holding that the competent authority/reviewing authority has no case or power to enhance the punishment and confirmed the order dated 30.04.1991.

3. Heard the learned advocates for the respective parties and perused the relevant record. As a result of this exercise, it is found that the respondent has committed 15 defaults. The respondent is an employee of public sector and he is dealing with public money. Misuse of public money is a serious misconduct. Therefore, if no punishment is imposed upon the respondent it would imply that anyone can commit such type of misconduct and can escape without any penalty. Therefore, looking to the seriousness of the misconduct, if penalty imposed on the respondent is enhanced, it would meet ends of justice.

4. In the premises aforesaid, the award of the Labour Court is quashed and set aside. The order of reviewing authority is substituted by imposing penalty of stoppage of three increments with future effect upon the respondent. The award of the Tribunal is modified accordingly.

5. The imposition of penalty shall be effected from the date of original penalty imposed by the authority i.e. 30.04.1991 and aforesaid award shall be implemented within a period of six months from today. Rule is made absolute to the aforesaid extent with no order as to costs.