

(2010) 09 GUJ CK 0176

In the Gujarat High Court

Case No : Special Civil Application No. 10412 of 1994

GSRTC

APPELLANT

Vs

Ashok Premji Hirani and Another

RESPONDENT

Date of Decision : 21-09-2010

Acts Referred:

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

Citation : (2010) 09 GUJ CK 0176

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : Dipen A. Desai, for the Appellant; Rule Served, 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 08/06/1994 passed by Labour Court, Rajkot in Reference (LCR) No. 15 of 1991, by which, Labour Court, Rajkot in exercise of power u/s 11-A of the Industrial Disputes Act has allowed the said Reference quashing and setting aside the action of the petitioner in dismissing the respondent from service and imposing the punishment of withholding of three increments without any permanent future effect and directing the petitioner to pay the backwages for the interim period.

2. Mr. Dipen Desai, learned advocate appearing on behalf of the petitioner has submitted that when the present petition was taken up for admission-hearing, there was no interim relief granted with respect to reinstatement and pursuant to that, respondent came to be reinstated in service and, therefore, now the question is only with respect to backwages awarded by the Labour Court, Rajkot.

3. Mr. Dipen Desai, learned advocate appearing on behalf of the petitioner has submitted that in the facts and circumstances of the case, more particularly, in departmental inquiry, charge and misconduct of recovering the fare and not

issuing tickets and subsequently issuing the tickets hurriedly and that too for lesser amount and misappropriation of balance amount, has been proved, Labour Court has materially erred in directing the petitioner to pay backwages to the respondent. It is submitted that as such Labour Court was not justified in directing the petitioner to reinstate the respondent. However, considering the fact that the respondent has been reinstated in service since 1994 and is not aware about the present status of the respondent, it is requested to consider the impugned judgment and award passed by the Labour Court, by which, Labour Court has directed to pay the backwages to the respondent.

4. Though served, nobody appears on behalf of the respondent.

5. Considering the facts and circumstances of the case, more particularly, considering the fact that charge and misconduct of collecting the fare and not issuing tickets and thereafter on seeing Checking Squad, he hurriedly issuing the tickets to the passengers for lesser amount and thereafter, misappropriation of balance amount has been proved, Labour Court has materially erred in directing the petitioner to pay backwages to the respondent and by substituting the punishment of withholding of three increments without future permanent effect. In the aforesaid facts and circumstances of the case, impugned judgment and award passed by Labour Court directing the petitioner to pay backwages is concerned, the same cannot be sustained and the same deserves to be quashed and set aside.

6. In view of the above, the petition succeeds in part and in so far as awarding backwages is concerned, the impugned judgment and award dated 08/06/1994 passed by Labour Court, Rajkot in Reference (LCR) No. 15 of 1991 is hereby quashed and set aside with respect to awarding backwages to the respondent. Rule is made absolute to the aforesaid extent. No costs.