

(2001) 05 GUJ CK 0006

In the Gujarat High Court

Case No : Special Civil Application No. 3100 of 1990

G.S.R.T.C.

APPELLANT

Vs

Dhirubhai J. Joshi

RESPONDENT

Date of Decision : 03-05-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 10(1)(C), 11A
Penal Code, 1860 (IPC) — Section 486

Citation : (2002) 22 GLH 215

Hon'ble Judges : K.M. Mehta, J

Bench : Single Bench

Advocate : M.D. Pandya, for the Appellant; R.D. Raval, for the Respondent

Final Decision : Allowed

Judgement

K.M. Mehta, J.—The Gujarat State Road Transport Corporation, hereinafter referred to as "petitioner-corporation", has filed this petition, under Article 226 and 227 of the Constitution of India, challenging award dated 25-11-1988 passed by the Presiding Officer, Labour Court, Bhavnagar in Reference (L.C.B.) No.402/1987. In this case, the petitioner-corporation dismissed the respondent-employee from service. However, the Labour Court by its impugned order directed the petitioner-corporation to reinstate the respondent, Dhirubhai J. Joshi, in service at his original place with continuity of service with fifty per cent backwages within stipulated time and also ordered cost of Rs.200/-.

2. The relevant facts give rise to this application are as under:

2.1 The respondent employee was on duty on the S.T. Bus of the petitioner-corporation on 3-6-1983 on Lathi-Bhavnagar route. The bus was checked by the checking squad at 6 o'clock near Damnagar Jakat Chhapra and certain irregularities were found by the checking squad. One group of passengers travelling from Lathi to Damnagar was not issued tickets, though fare of Rs.9.65 was recovered from them. One passenger travelling from Bhingrad to Damnagar

was also not issued tickets, though fare was recovered.

2.2 It has been stated in the petition that a report regarding the above incident having been submitted by the Traffic Inspector to the Competent Authority of the petitioner-corporation, the departmental enquiry was initiated against the respondent. The respondent-employee was chargesheeted for the above misconduct on 28-6-1983, by the Competent Authority of the petitioner-corporation. Along with the chargesheet, the respondent was given a copy of the statement of allegations along with other relevant papers on demand. The respondent-employee replied to the said chargesheet on 7-12-1984. The respondent-employee was offered opportunity of oral hearing on 13-2-1985, 28-2-1985 and 15-3-1985, but the respondent-employee did not remain present. The respondent-employee was also given oral hearing on 18-3-1985 by the petitioner-corporation. Mr.J.J.Upadhyay, Traffic Inspector, who made the report before the petitioner-corporation was also cross examined by one Mr.Jani, co-employee of the respondent on behalf of the respondent-employee. At the conclusion of the oral enquiry, taking into consideration the oral evidence on record and the statements of the passengers recorded, the guilt was found established by the Competent Authority of the petitioner-corporation. The Competent Authority of the petitioner-corporation served the respondent with a show-cause notice on 27-3-1985 requiring the respondent to show-cause as to why the respondent should not be dismissed from service of the petitioner-corporation since the charges levelled against him were found established. The respondent-employee filed his reply to the said show-cause notice on 29-3-1985. The Competent Authority having considered the other evidence and reply filed by the respondent-employee found that no new point was raised by the respondent in the reply to the show-cause notice and passed an order of punishment and dismissed the respondent-employee from the service of the petitioner by order dated 8-4-1985.

2.3 The respondent-employee, being aggrieved by the said order of dismissal dated 10-4-1985 preferred departmental first appeal on 4-5-1985 before the Appellate Authority of the petitioner-corporation. At the departmental first appeal, the respondent-employee was offered opportunity of oral hearing on 22-7-1985. The First Appellate Authority having examined the case of the respondent-employee and having heard the respondent-employee found that the punishment imposed by the Competent Authority of the petitioner-corporation was proper, looking to the guilt established and that there was no reason to interfere with the order of dismissal passed and on that ground dismissed the first appeal of the respondent on 24-7-1985.

3. Present Controversy:

3.1 The respondent raised an industrial dispute contending that the order of dismissal dated 10-4-1985 passed by the Competent Authority of the petitioner-corporation and the order of first Appellate Authority confirming the order of dismissal and dismissing respondent's departmental appeal was illegal. The

respondent claimed that he should be reinstated in service with full backwages. Conciliation proceedings commenced before the Conciliation officer but the dispute was not resolved and resulted into failure and report was submitted in that regard. The Assistant Labour Commissioner referred the dispute involving the claim as per above u/s 10(1)(c) of the Industrial Disputes Act to the Labour Court, Bhavnagar for adjudication.

3.2 Before the Labour Court, Bhavnagar, the respondent-employee filed his statement of claim vide Exh. 3. It was contended therein that the respondent's services came to be dismissed illegally. The departmental enquiry had proceeded ex-parte against the respondent, that the reply filed by the respondent to the show-cause notice was not considered. It was also contended that the respondent was not given copies of documentary evidence adduced against him. On these grounds claim was made to set aside the order of dismissal and to reinstate the respondent in service with full backwages.

3.3 The petitioner-corporation filed the reply vide Exh.7 to the statement of claim filed by the respondent-employee denying and refuting all the claims and contentions made therein. The petitioner-corporation filed list of documentary evidence vide Exh.8 and the respondent also adduced documentary evidence in support of his claim.

3.4 The Labour Court on the evidence on record, by its judgement and award dated 25-11-1988, found that the respondent-employee has not admitted his guilt before the Competent Authority of the petitioner-corporation and in that case it was necessary on the part of the petitioner to prove that charge. The petitioner has relied upon the statement of passengers but though demanded by respondent-employee, the passengers were not examined at the departmental enquiry. That except reporter nobody was examined by the petitioner-corporation to prove the charges levelled against respondent-employee. The Labour Court, further, observed that the cash was not checked on the spot, which could have revealed the true facts. That the respondent was not given proper opportunity to defend his case and the principles of natural justice have been violated. The Labour Court observed that as per the principles laid down in the decisions of the Hon"ble High Court of Gujarat, if the statements of passengers are to be relied upon, they should be examined at the departmental enquiry, and if they are not examined their statements should not have been taken on record as evidence. The Labour Court also observed that the reporter had no personal knowledge regarding misappropriation done by the respondent and in view of that there was no evidence on record, before the Competent Authority of the petitioner on which the charge levelled against the respondent could have been held proved. That the departmental enquiry was not conducted legally and the Labour Court directed that the respondent-employee be reinstated in service of the petitioner-corporation. Regarding backwages, the Labour Court found that the past record of the respondent-employee was had and the respondent-employee had committed fifty-two defaults. That he was habitual defaulter and though chances

have been given to the respondent to improve his conduct he has not improved himself. The Labour Court ordered that the respondent be given fifty per cent of the backwages and be reinstated in service to his original post with continuity in service. The true copy of the Award passed by the Labour Court is appended at Annexure "A" to the petition.

4. Mr.M.D.Pandya, learned Counsel appearing on behalf of the petitioner has submitted that the Labour Court has erred in not properly appreciating the scope and ambit of its jurisdiction. He further submitted that the Labour Court has erred in observing that the departmental enquiry was not conducted properly by the petitioner-corporation and rules of natural justice had been violated. He also submitted that the Labour Court has erred in observing that the respondent was not given opportunity to examine and cross examine the passengers whose statements were recorded at departmental enquiry and, therefore, their statements could not have been relied upon by the petitioner-corporation and it could not form part of evidence as per the principles laid down in the decision rendered by this Hon''ble High Court.

5. The learned Counsel further submitted that the Labour Court having observed that in the past the respondent has committed as many as fifty-two defaults and though the respondent was given opportunity to improve his conduct he has not improved himself, has erred in setting aside the order of dismissal and ordering reinstatement of the respondent-employee.

6. The learned Counsel further submitted that the Labour Court should have seen that lenient punishment in the past had not resulted into improvement on the part of the respondent and as such power u/s 11A of the Industrial Dispute Act ought not have been invoked in this case. He further submitted that the Labour Court should have seen that looking to the charge levelled and proved against the respondent-employee, the punishment imposed is appropriate.

7. The learned Counsel further submitted that the Labour Court should have seen that a conductor has to deal with money and it is a post of trust and confidence and as the respondent-employee has been found in the habit of misappropriating the petitioner-Corporation's revenue he should not have been ordered to be reinstated in service. He also submitted that the burden to prove that the case deserves invoking power u/s 11A of the Act is not discharged and relevant factors in exercise of the said power are not at all considered.

7.1(A) Learned counsel for the petitioner has relied upon the judgment of the Hon''ble Supreme Court in the case of U.P. State Road Transport Corpn. and Others Vs. A.K. Parul, . He has also relied upon another judgment of the Hon''ble Supreme Court in the case of Janatha Bazar (South Kanara Central Co-operative Wholesale Stores Ltd.) Etc., Vs. Secretary, Sahakari Nourakara Sangh, Etc. reported in AIR SCW 3439, particularly paras 6,7 and 8 the Hon''ble Supreme Court observed as under:

"Law on this point is well settled. Municipal Committee, Bahadurgarh Vs. Krishan

Behari and others, . In U.P. SRTC v. Basudeo Chaudhary, (1997) 11 SCC 370 this Court set aside the judgment passed by the High Court in a case where a conductor serving with the U.P.State Road Transport Corporation was removed from service on the ground that alleged misconduct of the conductor was attempt to cause loss of Rs.65/- to the Corporation by issuing tickets to 23 passengers for a sum of Rs.2.35 but recovering Rs.5.35 per head and also by making entry in the way bill as having received the amount of Rs.2.35, which figure was subsequently altered to Rs.2.85. The Court held that it was not possible to say that Corporation removing the conductor from service has imposed a punishment which is disproportionate to his misconduct. Similarly in Punjab Dairy Development Corporation Limited and another, etc. Vs. Kala Singh, etc., , this Court considered the case of a workman who was working as a Dairy Helper-cum-Cleaner for collecting the milk from various centres and was charged for the misconduct that he inflated the quantum of milk supplies in milk centres where there were less fat contents. The Court held that "in view of proof of misconduct a necessary consequence will be that Management has lost confidence that the workman would truthfully and faithfully carry on his duties and consequently the Labour Court rightly declined to exercise the power u/s 11-A of the I.D. Act to grant relief with minor penalty."

"In view of the aforesaid settled legal position, the High Court materially erred in confirming the directions given by the Labour Court in reinstating the respondent-workman with 25% back wages. For giving the aforesaid direction, the Labour Court considered that there is no evidence regarding past misconduct by the employees and, therefore, it can be observed that they have rendered several years of service without any blemish and to some extent, there was lapse on the part of the Management."

"In case of proved misappropriation, in our view, there is no question of considering past record. It is the discretion of the employer to consider the same in appropriate cases, but the Labour Court cannot substitute the penalty imposed by the employer in such cases."

7.1(B) He has referred the judgment of the Hon"ble Apex Court in the case of State of Haryana and Another Vs. Rattan Singh, . In para 4 the Hon"ble Apex Court has held as under: "The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fairplay is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. However, the courts below misdirected themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The simple point is, was there some evidence or was there no evidence - not in the sense of the technical rules governing regular court proceedings but in a fair commonsense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of

evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent of the record."

7.1(C) Learned counsel for the Corporation has relied upon judgment of this Court in the case of Parikshatbhai Madhavbhai Patel Vs. Division Controller, G.S.R.T.C. Surat reported in 2000(1) G.L.H. 31. In that case, appellant-employee Parikshatbhai Madhavbhai Patel was working as conductor with the Corporation. It was a case of the Corporation that when the appellant was on duty on Olphad-Punit route under Surat Depot, his bus was checked and it was found that though the appellant had collected amount of fare from certain passengers, he had not issued tickets nor he had closed way bill. A report was made and an inquiry was conducted against him wherein he was found guilty. He was, therefore, dismissed from service with effect from November 14, 1995. 7.1(D) Being aggrieved by the order of dismissal the appellant approached the Labour Court and in Reference (LCS) No. 190 of 1996. The Labour Court, Surat partly allowed the Reference by an award dated January 31, 1997 and directed the Corporation to reinstate the workman in service on the post of helper or peon without backwages.

7.1(E) Being dissatisfied with the award passed by the Labour Court, the Corporation preferred the petition. The learned Single Judge of this Court by the judgment impugned in the petition observed that while inflicting punishment of dismissal, the competent authority took into consideration the fact that the workman was involved in similar kind of misconduct on earlier occasions also and was punished in past. He also observed that once the workman was dismissed from service by the Disciplinary Authority but the Appellate Authority took a lenient view and substituted order of dismissal by imposing lesser punishment. In spite of such leniency, again, the appellant committed similar misconduct. In the opinion of the learned Single Judge, therefore, the Labour Court had not exercised its discretion in accordance with law and had exceeded the jurisdiction. The learned single Judge observation which has been quoted in para 4 of the judgment (of Division Bench Judgment) reads as follows:

"I have considered the rival contentions. It is the settled legal position that it is not for the Labour Court to interfere with the punishment unless the same is found to be disproportionate to the guilt. The workman was perhaps labouring under the wrong impression that simply because he does not challenge the correctness of the domestic enquiry, he will be dealt with lightly. In view of this, the learned Judge, in my view, has exceeded the jurisdiction in interfering with the order of punishment."

"Accordingly, the petition was allowed and the order passed by the Labour Court was set aside by making the Rule absolute."

7.1(F) Being aggrieved and dissatisfied with the aforesaid judgment, the employee of the Corporation preferred LPA before this Court. The Division Bench

of this Court after considering the judgment of the Hon"ble Apex Court in the case of The Indian Iron and Steel Co. Ltd. Vs. Their Workmen (AIR 1953 SC 130 , in para 12-A the Court observed as under:

"In our opinion, in the light of the law laid down by the Apex Court, it cannot be said that the powers of the Labour Court u/s 11-A of the Act are absolute or unqualified. The Labour Court can exercise the said power only when it is satisfied that the dismissal was not justified. In the facts and circumstances, the action of dismissal of workman cannot be said to be unjustified and hence in our opinion, the learned single Judge was right in holding that the Labour Court exceeded its jurisdiction in passing the award impugned in the petition."

In para 20 of the said judgment the Court observed as under:

"These facts in our opinion, ought to have been taken into consideration in their proper perspective by the Labour Court. Power u/s 11-A of the Act ought to have been exercised with circumspection in the light of misconduct in the case on hand and as also misconduct in the past. By not doing so, the Labour Court exceeded jurisdiction vested in it and the learned single Judge has rightly interfered with the said award by setting aside reinstatement of the workman."

7.1(G) In view of this judgment, it was submitted by the learned counsel for the Corporation that the Labour Court has not properly exercised its jurisdiction in this behalf and exceeded its jurisdiction. He further submitted that this judgment is squarely applies to this case and, therefore, the petition of the Corporation should be allowed in this behalf.

7.1(H) Learned counsel for the petitioner has relied upon recent judgment of this Court in the case of Gujarat State Road Transport Corporation Vs. R.S.Prajapati reported in 2001 LAB I.C. 618. In that case this Court considered case of very Corporation. The learned Single Judge has relied upon the earlier Division Bench decision of this Court in the case of Gujarat State Road Transport Corporation Vs. Jamnadas Becharbhai, and also judgment of Division Bench of this Court in the case of Gujarat Road Transport Corporation Vs. Kachraji Motiji Parmar, . It may be noted that in that case the advocate for the employee has relied upon the judgment of the learned Single Judge in the case of G.S.R.T.C. Vs. Parshottam Premji Tank reported in 2000(2) G.L.H. 258, when the learned Single Judge has confronted with the aforesaid judgments of the learned Single Judge in Para 12 the learned Single Judge has observed as under:

"There is no difficulty in following the said decision but at the same time we have to consider previous two decisions referred hereinabove which are the decisions recorded by the Division Bench of this Court, whereas the third decision referred to by the learned advocate for the respondent has been rendered by the learned Single Judge of this Court. Therefore, the principle enunciated in the former two decisions rendered by the Division Bench of this Court, will have preference over the third decision which has been rendered by the learned single Judge."

In para 13 on page 621 the Court has observed as under:

"Now, in this case, it can be reasonably inferred in the present case that the respondent has put the petitioner corporation to a monetary loss. Moreover, the extreme punishment has not been inflicted but the department has considered it just and proper to retain the respondent in service and to impose such punishment with a view to provide an additional opportunity to the respondent to show improvement. At the same time, strict action is required to be taken by a public body with a view to set example so that the respondent may not repeat the said misconduct. Same way, it may also deter other employees in a public body committing or intending to commit similar faults. In that view of the matter, punishment imposed by the petitioner authority cannot be treated harsh and excessive considering the default of the petitioner in the present case and considering the past conduct as well as the conduct subsequent to the event in question."

7.1(I) The learned counsel for the petitioner has relied upon the judgment of this Court in the case of G.S.R.T.C. Vs. Rameshbhai D.Patel in Special Civil Application No.3244 of 1992 decided on 8.11.2000 by this Court (Coram:K.M.Mehta,J.). In that case this Court considered the judgment of the Hon''ble Supreme Court in the case of U.P. State Road Transport Corpn. and Others Vs. A.K. Parul, , judgment of the Hon''ble Apex Court in the case of Janatha Bazar (South Kanara Central Co-operative Wholesale Stores Ltd.). Etc. Vs. Secretary, Sahakari Noukarara Sangh, Etc., reported in 37/2000 AIR Supreme Court Weekly 3439 and Division Bench judgment of this Court in the case of Gujarat Road Transport Corporation Vs. Kachraji Motiji Parmar, and also Division Bench judgment of this Court in the case of Mihir Textiles Ltd. Vs. Narayansing Layaksingh reported in 1993 (1) GCD 137. This Court considered the provisions of Sec.11-A of the Act and wherein the Tribunal has granted reinstatement the workman in similar situation the Court held that Tribunal has failed to exercise jurisdiction under Sec.11-A of the Act wherein Tribunal was pleased to direct the reinstatement of the workman and to consider the service of the workman as continuous. The Court held that when there is a case of misappropriation of funds of the Corporation, the order of the Tribunal requires to be quashed and set aside. There also the Court considered the provisions of Sec.11-A of the Act in view of all these decisions which are referred.

8. Learned counsel has also relied upon judgment of this Court in the case of Chanduji Sendhaji Khant Vs. Gujarat State Road Transport Corporation, Himmatnagar, . In para 9 the Learned Single Judge observed as under:

"Keeping in view the aforesaid precincts of judicial review under Arts. 226 and 227 of the Constitution of India, while examining the order passed by the Industrial Tribunal, I am of the opinion that under the facts and circumstances of the present case, exercise of discretion by the Tribunal cannot be sustained. It has nowhere recorded its satisfaction about the fact that punishment imposed upon the petitioner-workman was disproportionate to the guilt proved which is

condition precedent for exercising discretion under Sec.11-A of the Act. The only ground which weighed with the Tribunal in ordering reinstatement is that with the current increase in cost of living and chances of not getting any other job would render the family of the petitioner-workman in difficult situation and as the punishment should be reformatory, the workman should be given one more chance to mend his conduct on humanitarian grounds. To say the least, these general grounds will be available and applicable in all cases of dismissal of any employee irrespective of gravity of misconduct or technical nature of misconduct for which punishment has been imposed. There is nothing to show how the workman concerned would be affected and to what extent even if socio-economic conditions are to be taken into consideration for the purpose of imposing punishment though as would be discussed presently, is not abstract requirement. In this case, the Tribunal has found inquiry to be fair and in accordance with law, and found misconduct proved which is of carrying passengers without tickets implying dishonest conduct on the part of the conductor to retain with him the amount collected by carrying passengers without tickets affecting revenue of a body of a public nature, which cannot be equated with petty theft once committed in momentary weakness on account of socio-economic condition of the concerned workman, but is serious misconduct on account of nature of criminal breach of trust. It has also come on record that there is history of past 77 misconducts behind the workman. Therefore, the impugned order neither records satisfaction about the punishment being not justified being disproportionate to the misconduct proved nor does it give any relevant reasons for substituting lesser punishment. Exercise of discretion under the circumstances cannot be sustained even on limited scrutiny permissible under law and conclusion to that extent arrived at by the Tribunal must be held to be perverse."

In para 14 of the said decision, the learned Single Judge has observed as under:

"Therefore, if viewed from the seriousness to which this Court in its decision referred to above in Jamnadas Becharbhai's case (supra) about the misconduct proved in the present case and fact of consistent past bad record on that account and there being nothing on record to suggest socio-economic condition of workman concerned which might have tempted him to indulge in this adventurism as momentary temptation and not part of regular habit, renders the whole approach to the exercise of discretion by the Tribunal capricious, arbitrary and on extraneous considerations."

8.1 Learned counsel has also relied upon the decision of this Court in the case of G.S.R.T.C. Vs. Bhikhabhai Manjibhai, . In para 10 the learned Single Judge has observed as under:

"In the instant case, the Labour Court has accepted the case of the Corporation and the workman is held guilty but by exercising powers under Sec.11-A of the Act, directed the Corporation to re-employ the workman without considering the fact that in the past, the workman was found guilty in other cases and though

opportunity was given to improve, he has again indulged in the same activity. In the circumstances, the order passed by the Labour Court cannot sustain."

8.2 Learned counsel has also relied upon another decision of this Court in the case of Shantilal M.Shah Vs. Dena Bank & Others reported in 1997(1) G.L.H. 942. In para 8 on page 948 the Court observed as under:

"The petitioner filed appeal against the order of dismissal and before the appellate authority he has not raised the point that no financial loss was caused to the Bank. The petitioner cannot be allowed to raise a new point before this Court. The learned counsel for the petitioner has failed to show that no financial loss has been caused to the Bank. Apart from this, even if we proceeded on the footing that no financial loss has been caused to the Bank, and whatever loan advanced by the Bank could have been recovered from the borrowers, the question is whether the petitioner should have been regard, reference may have to the decision of the Supreme Court in the case of Municipal Committee, Bahadurgarh Vs. Krishan Behari and others, . In that case the respondent was dismissed from services of the Bank, on his conviction u/s 486 I.P.C. by the criminal court for committing forgery. Against the order of dismissal from service the respondent therein filed appeal. The Director of Local Bodies who, while upholding the correctness of the action, reduced the punishment to stoppage of four increments and has also directed that the period during which the respondent was out of service should be treated as extraordinary leave. The Apex Court, while dealing with the appeal of the employer, held that the respondent has been convicted of a serious crime, and in a case of such nature indeed, in cases involving corruption there cannot be any other punishment than dismissal. Any sympathy shown in such cases is totally uncalled for and opposed to public interest. The Apex Court further observed that the amount misappropriated may be small or large; it is the act of misappropriation that is relevant."

8.3 Learned counsel for the petitioner has also submitted that when petitioner is dealing with the Corporation money, it is a public money and misappropriated by the employee of the Corporation is the misappropriation of the public money and must be treated a serious misconduct.

9. Shri R.D.Raval, learned advocate for the respondent-employee has tried to support the award of the Tribunal in this behalf.

9.1 In view of the same, it was submitted that the Labour Court should have confirmed the findings of the Corporation and dismissing the workman from the service, particularly after considering the adverse remarks of the workman in question.

10. In my opinion, looking to the past conduct of the employee, the report of the Enquiry Officer, and the powers vested u/s 11-A of the Industrial Disputes Act, the Tribunal has not properly exercised the jurisdiction vested u/s 11-A of the Act. In fact, the Tribunal has failed to exercise jurisdiction u/s 11-A of the Act

and was pleased to direct the reinstatement of the workman and to consider the service of the workman as continuous. In my view Tribunal has unnecessarily shown sympathy to the workman inspite of the fact that there is a clear case of misappropriation of funds of the Corporation. In my view, the order of the Tribunal is required to be quashed and set aside. The petition is, therefore, allowed. The order of the Tribunal dated 25.11.1988 passed by the Presiding Officer, Labour Court, Bhavnagar, in Reference LCB No.402 of 1987, giving reinstatement to the workman is bad in law and is hereby quashed and set aside. Rule is made absolute. No order as to costs.

11. Shri R.D.Raval, learned advocate for the respondent stated that the employee is physically handicapped namely he is deaf and he is not able to speak properly and in recent earthquake he has lost his house also, in view of the same he submitted that the Corporation should take sympathetic view in the matter. In view of the same, I am of the view that if the respondent-employee files his representation before the Corporation stating out this fact then Corporation may consider his case kindly and sympathetically and may pass appropriate order in this behalf without influencing the order of this Court and will decide independently in this behalf when they consider the case on the humanitarian ground.