
(2010) 10 GUJ CK 0165
In the Gujarat High Court

Case No : Special Civil Application No. 5081 of 2010

Gujarat State Road Transport Corporation	APPELLANT
Vs	
Chandrakant Jerambhai Mer	RESPONDENT

Date of Decision : 28-10-2010

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2010) 10 GUJ CK 0165

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : Hardik C. Rawal, for the Appellant; D.M. Devnani, 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 or direction quashing and setting aside the impugned judgment and award dated 17/11/2009 passed by the learned Presiding Officer, Labour Court, Kachchh at Bhuj in Reference (L.C.B) No. 21/2004 by which the learned Labour Court has allowed the Reference quashing and setting aside the action of the Petitioner-Gujarat State Road Transport Corporation dismissing the Respondent-workman from service declaring the departmental inquiry held against the Respondent as illegal and in breach of principles of natural justice.

2. Shri Hardik Raval, learned advocate appearing on behalf of the Petitioner has vehemently submitted that assuming without admitting that the finding given by the Labour Court, declaring the departmental inquiry, is illegal and in breach of principles of natural justice, in that case also, it will be open for the Petitioner to prove the charge by leading evidence as if no departmental inquiry was held at all, and, therefore, it is requested to remand the matter to the Labour Court permitting/allowing the Petitioner to lead the evidence and to prove the charge and the misconduct levelled against the Respondent-workman.

3. Shri Devnani, learned advocate appearing on behalf of the Respondent has

submitted that in that case considering the fact that the Respondent-workman is out of job since 2000 the Labour Court may be directed to decide and dispose of the Reference, on remand, within the stipulated time. The learned advocates appearing on behalf of the respective parties do not invite any further reasoned order.

4. In view of the above and for the reasons stated hereinabove and the broad consensus between the learned advocates appearing on behalf of the respective parties and keeping the larger question whether can the Inquiry Officer and the disciplinary authority be the same and/or in case the Inquiry Officer and the disciplinary authority is the same, whether the same would be in breach of principles of natural justice or not. Keeping all the aforesaid questions open, the present Special Civil Application is allowed in part and the impugned judgment and award passed by the Labour Court, Kachchh at Bhuj dated 17/11/2009 in Reference (L.C.B.) No. 21/2004 is hereby quashed and set aside and the matter is remanded to the Labour Court, Kachchh at Bhuj for deciding the same afresh in accordance with law on its own merits reserving the liberty in favour of the Petitioner to prove the charge and lead appropriate evidence and it will be open for the Respondent to lead the evidence contrary. The aforesaid exercise shall be completed within a period of nine months from the date of receipt of the present order. All concerned are directed to cooperate with the learned Labour Court for deciding the Reference at the earliest and within the stipulated time stated hereinabove and the learned advocates appearing on behalf of the respective parties have assured the Court that their counter part shall not ask for any unnecessary adjournment and will give full cooperation in early disposal of the Reference within the stipulated time stated hereinabove. It is made clear that this Court has not expressed any opinion on merits in favour of either parties and it will be ultimately for the Labour Court to pass an appropriate order in accordance with law on its own merits. Rule is made absolute to the aforesaid extent.

5. Registry is directed to send writ of this order to the Labour Court, Kachchh at Bhuj immediately.