

**(2010) 07 GUJ CK 0013**

**In the Gujarat High Court**

**Case No : Special Civil Application No. 15434 of 2003**

Gujarat State Road Transport Corporation

APPELLANT

Vs

Deshabhai Muljibhai Katariya

RESPONDENT

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**Date of Decision :** 28-07-2010

**Acts Referred:**

**Citation :** (2010) 07 GUJ CK 0013

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

**Bench :** Single Bench

**Advocate :** Sejal K. Mandavia, for the Appellant; G.K. Rathod, for the Respondent

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## **Judgement**

K.S. Jhaveri, J.—By way of present petition, the petitioner has inter alia prayed for quashing and setting aside the judgment and award dated 18.02.1998 passed by the Labour Court, Ahmedabad in Reference (LCA) No. 2451 of 1995 and order dated 28.08.2002 passed by the Labour Court, Ahmedabad in Review Application No. 12 of 1998 preferred by the respondent for modification of the order dated 18.02.1998.

2. The case of the petitioner is that the respondent- Conductor working at Kamkhambhaliya of Rajkot Division was served with charge-sheet by the petitioner-Corporation in pursuance of the incident dated 03.01.1994. After holding departmental inquiry in accordance with law, the competent authority by order dated 07.12.1994 dismissed the respondent. Against the dismissal order, the respondent preferred an appeal, which was rejected on 06.03.1996. The respondent has raised the dispute before the Labour Court, Ahmedabad by way of Reference (L.C.A) No. 2451 of 1995 whereby the Labour Court has granted reinstatement to the respondent without backwages and reduced the penalty of dismissal into stoppage of two annual increments with permanent effect. The respondent-workman reinstated in the service and thereafter filed Review Application No. 12 of 1998 before Labour Court for modification of order dated 18.02.1998 passed by the Labour Court, Ahmedabad in Reference ( L.C.A) No.

2451 of 1995. The Labour Court allowed the said Review Application and substituted the word "permanent effect" into "without permanent effect" and thereby reduced the penalty imposed by Labour Court while passing the order dated 18.02.1998. Hence, this petition.

3. Heard learned advocates appearing for the respective parties and relevant record. As a result of this exercise, looking to the misconduct, I am of the view that such a misconduct would not warrant dismissal of the employee from service. Therefore, the Labour Court was justified in reinstating the respondent.

4. However, it is found that there are as many as twenty defaults committed by the respondent. It appears that the Labour Court has not considered the evidence produced on record in respect of these defaults. This is a serious misconduct on the part of the respondent. Most of the defaults pertain to the non-issuance of tickets. The respondent is an employee of public sector and he is dealing with public money. Misuse of public money is a serious conduct. Therefore, if appropriate punishment is not imposed upon the respondent, it would imply that any one can commit such type of misconduct and can get away without adequate penalty. I am of the view that imposition of penalty of stoppage of two increments with future effect would meet the ends of justice.

5. In the premises aforesaid, the award of the Labour Court passed in Review Application is substituted by imposing penalty of stoppage of two increments with future effect. The award of the Labour Court is modified accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

6. The retiral benefits will be released by the petitioner within a period of four months from today.