

(2010) 07 GUJ CK 0108

In the Gujarat High Court

Case No : Special Civil Application No. 12223 of 2001

Gujarat State Road Transport Corporation

APPELLANT

Vs

Ibrahim Ahmedsha Diwan

RESPONDENT

Date of Decision : 28-07-2010

Acts Referred:

Industrial Disputes Act, 1947 — Section 11A

Citation : (2010) 07 GUJ CK 0108

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

Bench : Single Bench

Advocate : Nagesh C. Sood, for the Appellant; G.K. Rathod and Mukesh H. Rathod, for the Respondent

Judgement

K.S. Jhaveri, J.—By way of this petition, the petitioner has prayed to quash and set aside the judgment and award passed by the Labour Court, Vadodara in Reference (LCV) No. 221/1999 dated 11.07.2001, whereby, the reference of the respondent was partly allowed and the petitioner has been directed to reinstate the respondent on his original post with continuity of service but, without any back wages. However, the respondent was imposed imposed a penalty of stoppage of three increments without permanent effect.

2. The facts in brief are that on 28.03.1993 while the respondent was discharging his duties as a Condcutor, the bus was checked by the checking squad of the petitioner-Corporation and it was allegedly found that the respondent had committed certain irregularities in the issuance of tickets. After following due procedure, the disciplinary authority of the petitioner-Corporation imposed the penalty of dismissal from service vide order dated 29.04.1995. The first & second appeals preferred by the respondent, against the said order, were rejected. Therefore, the respondent raised a dispute, which, ultimately, culminated into a Reference before the Labour Court. The Labour Court, after considering the evidence on record, partly allowed the reference, by passing the impugned award. Hence, this petition.

3. Heard learned Counsel for the respective parties and perused the documents on record. The respondent was found guilty of serious irregularities/misconducts on 39 different occasions in the past. He was also found guilty of similar misconduct in the past. Being an employee attached with a public utility sector, the respondent ought to have discharged his duties honestly and diligently. However, looking to the misconduct committed by the respondent, the penalty of dismissal from service imposed by the petitioner is very harsh.

4. On the other side, I also find the penalty substituted by the Court below, while exercising powers u/s 11A of the I.D. Act to be on the lesser side. In my opinion, if the penalty of stoppage of five increments with future effect is imposed on the respondent, the same would meet with the ends of justice. Orders accordingly. The impugned award stands modified to the above extent only. Rest of the award stands confirmed on the same terms. The ensuing monetary benefits shall be released within a period of four months from today. The petition stands disposed of accordingly. Rule is made absolute to the above extent with no order as to costs.