

(1996) 01 GUJ CK 0031
In the Gujarat High Court

Gujarat State Road Transport Corporation	APPELLANT
Vs	
J.N. Valand	RESPONDENT

Date of Decision : 12-01-1996

Acts Referred:

Citation : (1997) 1 GLR 146

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

Bench : Single Bench

Judgement

S.K. Keshote, J.—The only contention raised by the learned Counsel for the petitioner Shri Shelat in this case is that even if the Tribunal has considered that the punishment of dismissal from service awarded to the workman is disproportionate and harsh but it was not substituted by any other punishment. It has further been contended by Shri Shelat that the workman has committed a serious misconduct of not issuing tickets to the passengers though the money had been taken from them. It is a case of misappropriation of Corporation money. This charge has been proved and the Labour Court has also accepted the same. Shri Shelat next contended that misappropriation of money by the conductor may be of a meagre amount but that could not be a consideration not to give any punishment whatsoever. Shri Shelat further contended that the Labour Court should not have allowed the workman to go without any penalty though he has committed a serious misconduct.

2. I have considered the submissions made by the learned Counsel for the petitioner. After going through the award, I am satisfied that the Labour Court has committed a serious illegality in not giving any punishment to the workman when the charge of misappropriation was not disbelieved. Though this writ petition has come up for hearing before this Court after twelve years and by interim relief the opportunity was given to the Corporation to absorb the workman in a post other than the post which he holds prior to the dismissal, I do not consider it to be in the interest of justice to maintain the order of dismissal but I do not agree with the grounds which had been given by the Labour Court to

hold the punishment of dismissal to be disproportionate and harsh. It is a case of misappropriation of the Corporation money by the conductor. The amount of Rs. 17.55 ps. and Rs. 4.20 ps. cannot be said to be meagre or negligible in the year 1977. Otherwise also the quantum of the amount is not a consideration but the consideration is that the workman was a conductor and even if he has failed to issue a ticket of 0-10 ps. after having collected the money from the passenger, it is a very serious thing. The finding of the learned Labour Court holding that the misappropriation of Corporation money committed by the workman was not of a grave nature is absolutely perverse. In such cases, the questions of suffering of financial hardship are not relevant. The economic death or workman's dismissal is also not relevant in every case because on dismissal naturally its consequential effect is of economic death. If in such cases, a lenient view is adopted in awarding punishment by the Courts then it will encourage the conductors to misappropriate the Corporation money.

3. Looking to the nature of duties and purpose of keeping a conductor on bus the misappropriation of Corporation money by a conductor is a serious and grave misconduct and it should be severely dealt with. In such matters, if the leniency in the matter of punishment is adopted then it will give encouragement to the other conductors to misappropriate Corporation money as they feel security of job/employment though may not be as a conductor because they know that the Courts will come to their rescue. In the facts of this case, as stated earlier, I do not consider it to be in the interest of justice to confirm the order of dismissal of the workman after about 13 years of his reinstatement in service. However, looking to the misconduct of misappropriation, it deserves to be severely dealt with.

4. In the result, the award dated 8-12-1982 of the Labour Court, Ahmedabad in Reference (L.C.A.) No. 1862 of 1978 is set aside and the matter is remitted back to the Labour Court with directions to pass appropriate order of substituting another penalty for dismissal of the workman. While considering the question of substituting other penalty for dismissal, the Labour Court shall keep in mind the observations made in this judgment. The matter may be decided within three months from the date of receipt of the writ of the Court. However, it is made clear that the workman-respondent shall continue in service. Rule is made absolute in the aforesaid terms. No order as to costs.