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(2010) 07 GUJ CK 0038

In the Gujarat High Court

Case No : Special Civil Application No. 11401 of 2001

Gujarat State Road Transport Corporation — APPELLANT

Vs

K.K. Makwana — RESPONDENT

Date of Decision : 28-07-2010

Acts Referred:
Industrial Disputes Act, 1947 — Section 11(A)

Citation : (2010) 07 GUJ CK 0038

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

Bench : Single Bench

Advocate : Hardik C. Rawal, for the Appellant; U.T. Mishrat and T.R. Mishra, for the Respondent

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 28.11.2000 passed by the Industrial Tribunal, Bhavnagar in Reference (IT) No. 22 of 1992, whereby the Reference of the petitioner came to be partly allowed by quashing and setting aside the order dated 27.01.1986 of imposing penalty of two increments with future effect.

2. The case of the petitioner is that the respondent-Conductor, though collected fare from the passengers, tickets were not issued to them. On these allegation, after following the required procedure, an order was passed on 27.01.1986 by which, two yearly increments were stopped with permanent effect. Against this order, departmental first appeal was filed, which was dismissed. Thereafter, second appeal was filed by the respondent which was disposed of by confirming the punishment order. The respondent has raised the dispute before the Industrial Tribunal, Bhavnagar by way of Reference (I.T.) No. 22 of 1992, which was partly allowed, by way of impugned judgment and award. Hence, present petition.

3. Heard learned advocates appearing for the respective parties and perused the documents on record. The respondent was found guilty of serious irregularities/

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misconducts on twenty one different occasions in the past. Being an employee, attached with a public utility sector, it was the duty of the respondent to take necessary care and caution while discharging his duties. Inspite of having committed such defaults in the past, the respondent had not exercised reasonable care and was found negligent, which is highly unbecoming of a Government employee.

4. Looking to the facts of the case, it is found that while exercising power u/s 11A of the Industrial Disputes Act, 1947, the Tribunal has not imposed any penalty on the respondent. I am, therefore of the view that interest of justice would be met by imposing a punishment upon the respondent. Accordingly, a penalty of withholding of three increments with future effect is imposed upon the respondent. The award of the Industrial Tribunal is modified accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

5. The ensuing monetary benefits will be released by the petitioner within a period of four months from today. The petition stands disposed of accordingly.

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