

(2010) 08 GUJ CK 0087

In the Gujarat High Court

Case No : Special Civil Application No. 3024 of 2007

Gujarat State Road Transport Corporation

APPELLANT

Vs

Narbheram B. Garva

RESPONDENT

Date of Decision : 25-08-2010

Acts Referred:

Industrial Disputes Act, 1947 — Section 11A

Citation : (2010) 08 GUJ CK 0087

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

Bench : Single Bench

Advocate : Hardik C. Rawal, for the Appellant; Kishor M. Paul, for the Respondent

Judgement

K.S. Jhaveri, J.—By way of this petition, the petitioner has inter alia prayed to quash and set aside the judgment and award 09th January 2006 passed by the Labour Court, Gandhidham-Kuchchh in Reference (LCG) No. 62 of 1999, whereby the Labour Court set aside the punishment imposed by the petitioner-Corporation.

2. The facts in brief are that the respondent-Conductor was chargesheeted for disciplinary proceedings, where the respondent was allegedly found to have committed certain irregularities while remain absent. Ultimately, the disciplinary authority dismissed the respondent from service.

3. Against the said order of dismissal, the respondent raised a dispute, which was referred to the Labour Court, Gandhidham. The Labour Court, after hearing both the sides, allowed the reference partly by way of the impugned award. Hence, this petition.

4. Heard learned Counsel for the respective parties and perused the documents on record. The respondent was found guilty of serious irregularity/misconduct on Twenty-Eight (28) different occasions in the past. Of these defaults, many defaults related to incidents of similar nature. In spite of being found guilty of similar defaults in the past, the respondent did not improve his behaviour and

continued to commit such misconduct, which is highly unbecoming of a public servant.

5. Looking to the facts of the case and the past record of the respondent, I am of the opinion that the Labour Court ought not to have completely set aside the order of dismissal, as it would amount to granting premium to a wrong-doer. In my opinion, if the penalty of stoppage of Five (5) 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 accordingly. The order passed by the Labour Court granting backwages to the respondent is quashed and set aside since the Labour Court has no powers u/s 11(A) of the Act to grant any backwages. The petitioner is directed to reinstate the respondent on or before 01st October 2010. The respondent be granted the other ensuing benefits within a period of six months from today. The petition stands disposed of accordingly. Rule is made absolute to the above extent with no order as to costs.