

(2010) 08 GUJ CK 0012

In the Gujarat High Court

Case No : Special Civil Application No. 22162 of 2005

Gujarat State Road Transport Corporation

APPELLANT

Vs

Navalsinh M. Chavada

RESPONDENT

Date of Decision : 25-08-2010

Acts Referred:

Industrial Disputes Act, 1947 — Section 11(A)

Citation : (2010) 08 GUJ CK 0012

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

Bench : Single Bench

Advocate : Falguni D. Patel, for the Appellant; Deepak P. Sanchela, for the Respondent

Judgement

K.S. Jhaveri, J.—This petition is directed against the judgment and award dated 30.12.2004 passed by learned Industrial Tribunal, Rajkot in Reference (IT) No. 19 of 1998 whereby the order of the imposition of penalty of stoppage on two increments with future effect is set aside. The Tribunal has imposed penalty of stoppage of one increment without future effect upon the respondent and directed to the petitioner to pay 50% differential amount.

2. The respondent was serving with the petitioner Corporation as Conductor. On surprise checking of checking squad of petitioner-Corporation, it was found that the respondent had not issued ticket to one passenger though fare was collected from him and also instigated the passengers and not co-operated with the officers while checking his bus. In view of such misconduct, the respondent was issued charge-sheet as the respondent was found defaulter, misappropriation of money, misbehaviour and negligent in discharging his duty. After holding departmental inquiry, a punishment of stoppage of two increments with future effect was imposed upon him. The respondent preferred first appeal which came to be rejected. The respondent therefore raised a dispute which was numbered as Reference (IT) No. 19 of 1998 before the Industrial Tribunal, Rajkot. The Tribunal after adjudicating the matter, passed the award as stated hereinabove.

Hence, this petition.

3. Learned advocate for the respondent has submitted that the Tribunal has committed error inasmuch there are 26 defaults committed by the respondent and keeping in mind the seriousness of the misconduct on the part of the respondent, the Tribunal while exercising power u/s 11(A) of the Industrial Disputes Act, 1947 the penalty should be proportionate to the misconduct committed by the respondent.

4. Learned advocate for the respondent has supported the judgment and award of the Tribunal.

5. Heard the learned Advocates for the respective parties and perused the relevant record. As a result of this exercise, I am of the view that the Tribunal has committed an error in not considering the 26 past defaults on the part of the respondent. In view of such past defaults, the punishment imposed by the Tribunal is too lenient and not in consonance with the gravity of the misconduct. Having considered the matter in depth, I am of the view interest of justice would be met by restoring the order of punishment of imposition of penalty of stoppage of two increments with future effect passed by the competent authority of the petitioner-Corporation.

6. Accordingly a punishment of stoppage of two increments with future effect shall be imposed upon the respondent. The judgment and award of the Labour Court is modified accordingly. Rule is made absolute to the aforesaid extent with no order as to costs. The judgment and award shall be implemented within a period of six months from today.