

(2010) 08 GUJ CK 0226

In the Gujarat High Court

Case No : Special Civil Application No. 10568 of 2005

Gujarat State Road Transport Corporation

APPELLANT

Vs

Secretary, S.T. Worrkers Union

RESPONDENT

Date of Decision : 25-08-2010

Acts Referred:

Citation : (2010) 08 GUJ CK 0226

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

Bench : Single Bench

Advocate : Sejal K. Mandavia, for the Appellant;

Final Decision : Allowed

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 dated 26th April 2004 passed by the Industrial Tribunal, Ahmedabad in Reference (IT) No. 358 of 1997, whereby the Tribunal set aside the punishment imposed by the Reviewing Authority of the petitioner-Corporation.

2. The facts in brief are that the respondent-Conductor was chargesheeted for disciplinary proceedings in relation to an incident that had occurred on 26th September 1993 where the respondent was allegedly found to have committed certain irregularities while issuing tickets. Ultimately, the disciplinary authority imposed the punishment of stoppage of one increment with permanent effect, which ultimately came to be increased to stoppage of five increments by the Reviewing Authority.

3. Against the said order of punishment, the respondent raised a dispute, which was referred to the Industrial Tribunal, Ahmedabad. The Tribunal, 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 44 (forty-four) 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 Tribunal ought not to have completely set aside the order of punishment, as it would amount to granting premium to a wrong-doer. In my opinion, the penalty of stoppage of five increments with future effect imposed by the Reviewing Authority is just and proper. The Tribunal ought to have taken into consideration the fact that the respondent was indulged into about 44 defaults and, thus, the punishment imposed upon the respondent by the Reviewing Authority is just and proper. The Tribunal has erred in holding that the Reviewing Authority has no powers. The view taken by the Reviewing Authority is required to be upheld.

6. In view of aforesaid, present petition is hereby allowed. The order passed by the Reviewing Authority is hereby upheld. This order to be implemented within a period of seven months from today. The petition stands disposed of accordingly. Rule is made absolute to the above extent with no order as to costs.