
(1998) 08 P&H CK 0034
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 1329 of 1992

Harjinder Singh

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision : 24-08-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 1 LLJ 1292 : (1999) 121 PLR 106

Hon'ble Judges : N.C. Khichi, J;Jawahar Lal Gupta, J

Bench : Division Bench

Judgement

Jawaharlal Gupta, J.—The appellant was employed as a Conductor with the Punjab Roadways. He collected fare from the passengers but did not issue the tickets. The default having been noticed, disciplinary proceedings were initiated. A domestic enquiry was ordered. The charge was proved. He was ordered to be dismissed from service. The appellant raised an industrial dispute. The matter was referred to the Labour Court. After recording evidence the Labour Court found that a fair and proper enquiry had been held. The workman had been given full opportunity to defend himself and produce evidence. However, taking the view : that the workman had committed fraud in respect of paltry sum of Rs. 9.70 the Court held that the punishment was too severe. It, thus, set aside the order of dismissal and directed the respondent-State of Punjab to give him a fresh appointment.

2. Aggrieved by this award the State of Punjab filed a writ petition. The learned Single Judge has held that the "fact that he collected the money from the passengers and did not issue tickets is a conduct which depicts dishonesty and the only justifiable punishment for such misconduct should normally be dismissal." It was further held that the award given by the Labour Court in July 1981 having "remained stayed all this time I do not think it would be in the interest of industrial relations to bring him back in the service after a lapse of more than a decade." Thus, the award was set aside.

3. Aggrieved by the order of the learned Single Judge the workman has filed the present Letters Patent Appeal. Mr. Vikas Singh, learned counsel for the appellant, has contended that the amount being too small and the Labour Court having exercised its discretion, the High Court should not have interfered under Article 226 of the Constitution, learned counsel has placed reliance on the decision of their Lordships of the Supreme Court in the Workmen of MI, Firestone Tyre & Rubber Company of India P. Ltd. v. The Management 1973 I LLJ 279

4. It is, undoubtedly, correct that the appellant had embezzled only a small amount of Rs. 9.70. However, can an employer be forced to trust a person who cannot resist the temptation to embezzle even Rs. 9.70 ? The appellant has by his conduct shows that he cannot be trusted with even a small amount. A person who had lost the confidence of the employer should not have been foisted on the department by the Labour Court.

5. It is true, that u/s 11A the Labour Court has the power to reappraise the evidence. It is also true that the writ Court it normally reluctant to interfere with the finding : recorded by the Labour Court. Yet, the power, given to the Labour Court cannot be arbitrarily used to order reinstatement or reemployment of dishonest employees. Fraud of even a small amount is like a drop of poison in a bucket pure milk. It ruins the milk completely and renders it unfit for human consumption Similarly, an employee found to be guilty of : dishonest act renders himself unfit for retention in service.

6. Besides the above, it is the admitted position that the workman had been dismisses from service on November 16, 1978. The Labour Court had undoubtedly decided in his favour in the year 1981. It was on that account that wages as admissible u/s 17B were given to the workman after he had mad an application on January 5, 1991. However it would not he fair to now foist the appellant on the employer.

7. In view of the above, we find no in this appeal. It is, consequently, dismissed In the circumstances, there will be no order as to costs.