

(2013) 04 RAJ CK 0040

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 878 of 2012 in .C.W.P. No. 5553 of 2012

Indrapal Singh

APPELLANT

Vs

Industrial Tribunal and Another

RESPONDENT

Date of Decision : 01-04-2013

Acts Referred:

Industrial Disputes Act, 1947 — Section 33(2)(b)

Citation : (2013) 138 FLR 921

Hon'ble Judges : V.K. Mathur, J;N.K. Jain, J

Bench : Division Bench

Advocate : D.S. Sodha, for the Appellant;

Judgement

V.K. Mathur, J.—This intra-Court appeal is directed against order of Single Bench dated 27th August, 2012, whereby writ petition filed by petitioner against order dated 4.6.2009 passed by Industrial Tribunal, Rajasthan, whereby, an application filed by respondent Corporation u/s 33(2)(b) of the Industrial Disputes Act to accord approval to termination order of workman/petitioner was allowed, has been dismissed.

Briefly stated, the facts of the case are that the petitioner/appellant was appointed on the post of conductor and assigned to work on Bus No. 845 of the employer-Rajasthan State Road Transport Corporation (hereinafter referred to as "RSRTC"), plying on Udaipur to Som route. During inspection on 7th May, 1991, it was found that 15 passengers were travelling in the Bus without tickets, from whom fare had been collected by the petitioner. The RSRTC placed the petitioner/appellant under suspension vide order dated 8th May, 1991. The petitioner was issued a charge-sheet in this regard and after inquiry, he was found guilty of the charge, levelled against him. Consequently, the employer-RSRTC vide order dated 29th July, 1993 removed the petitioner from service.

The removal order was placed for approval before the Industrial Tribunal u/s 33(2)(b) of the Industrial Disputes Act. The employer-RSRTC produced two

witnesses while appellant examined himself. Learned Tribunal vide order dated 4th June, 2009, affirmed the order of removal of the petitioner.

2. The petitioner filed a writ petition challenging the order dated 4th June, 2009 passed by learned Tribunal. The learned Single Judge vide order dated 27th August, 2012 dismissed the writ petition, holding that the order of the Tribunal does not suffer from any error that may warrant interference.

3. We have heard Mr. D.S. Sodha, learned Counsel for the appellant and the documents available on record as well as the impugned judgment.

4. The learned Single Judge observed that the signatures of the petitioner were available on the inspection memo produced by the employer before the Tribunal and this fact is sufficient about the inspection made and also about truthfulness of the evidence of inspection memo. As regard to non-payment of subsistence allowance, it was observed that an opportunity of defence was given to the petitioner before the Tribunal and no prejudice was caused to the petitioner's rights.

5. In State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya, Hon''ble Apex Court has held in Para 6 as under:--

6. It is now well settled that the Courts will not act as an Appellate Court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, Courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a Tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. Courts will, however, interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.

6. In view of above law laid down by the Hon''ble Apex Court in State Bank of Bikaner & Jaipur's case (supra), it cannot be said that the findings recorded against the appellant are perverse or based on no evidence. The reasons assigned by the learned Single Judge in dismissing the writ petition are absolutely just and legal.

7. The learned Single Judge has dealt with the legal and factual aspects on the issues raised. Having regard to the constricted scope of scrutiny in the exercise of writ jurisdiction as well as in the present intra-Court appeal, we are of the opinion that no interference is warranted. The appeal, therefore, lacks in merit and is dismissed with no order as to cost.