

(2004) 07 UK CK 0018
In the Uttarakhand High Court

Jaiveer Singh

APPELLANT

Vs

Regional Manager, Uttaranchal Roadways Corporation and
Others

RESPONDENT

Date of Decision : 07-07-2004

Acts Referred:

Citation : (2005) 105 FLR 805

Hon'ble Judges : Rajesh Tandon, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajesh Tandon, J.—Heard Sh. Gopal Narain learned Counsel for the petitioner and Standing Counsel for the respondent.

2. By the present writ petition the petitioner has prayed for the issue of a writ, order or direction in the nature of certiorari quashing the impugned suspension order dated 5-11-2003 (Annexure-3 to the writ petition) passed by the respondent. Further prayer was made for a writ of mandamus commanding the respondent to permit the petitioner to discharge his duties and pay the current wages.

3. Brief facts giving rise to the present writ petition are that the petitioner was a driver under employment of the respondent. All of a sudden on 22-12-1996, the petitioner was charge-sheeted and domestic enquiry was conducted by the order dated 12-3-1999 and the petitioner was dismissed from the service.

4. Against the dismissal order dated 12-3-1999, the petitioner has raised an Industrial Dispute, which was referred to Labour Court Dehradun being Adjudication Case No. 132 of 2000 and according to the petitioner after giving several opportunities no-one appeared on behalf of respondents and no written statement was filed and as such the labour Court has proceeded to decide the dispute under Rule 12(9) of the U.P. Industrial Dispute Rules, 1957 and the award was given on 12.1.2001. It was held that the order of dismissal dated

12-3-1999 was illegal and unjustified and the petitioner was directed for reinstatement with full back wages. A writ petition Was filed being Writ Petition No. 490 of 2002 (M/S) against the award dated 12-1-2001, where the interim order was granted by which the petitioner was directed to reinstate and pay the back wages at the current rate. The order is quoted below:

Heard learned Counsel for the parties.

Learned Counsel for the respondent No. 2 prays for and is allowed six week's time to file counter affidavit. List thereafter. Operation of impugned award shall remain stayed provided the respondent No. 2 is reinstated and is paid wages at the current rate. However, back wages shall not be paid to the respondent No. 2.

5. The submission of the petitioner is that the authorities were annoyed and as such the petitioner was suspended by order dated 5-11-2003 by making false charges.

6. The charges against the petitioner shows as under:

Jh t;chj flag] pkyd iq= jke"kj.k] mRrjkapy ifjogu fuxe] gfj}kj fMiksa ftuds fo:) fuEufy[kr vkjksiks ds lEcU/k esa vuq"kkklufud dk;Zokgh izLrkfor gS] eS ,rn~}kjk rkRdkfyd izHkko ls fuyfEcr fd;k tkrk gSA

1- fnuakd 5-11-2003 dks izca/k funs"kd mRrjkapy ijfokj fuxe ds fMiks dk;Z"kkyk xSLV gkml gfj}kj ds fujh{k.k ds le; vHknz "kCnks dk iz;ksx djuk] dk;Z es O;o/kku mRiUu djuk vkfnA

2- vius in ds drZO; ,oa nkf;Roks dk fu"BkiwoZd ikyu u djukA

7. The petitioner therefore has challenged the said order by way of Writ Petition No. 1502 of 2003(M/S). Writ Petition No. 490 of 2002 (M/S) has been filed by the U.P.S.R.T.C challenging the order of reinstatement of the petitioner.

8. The labour Court has already reinstated the petitioner and the present suspension order has been passed on the ground that the petitioner has used the abusive language, which was also the subject matter of W.P. No. 490 of 2002 (M/S), Since the petitioner has already been reinstated, and W.P. No. 490 of 2002 (M/S) was decided by modifying the award to live extent of 50% of the back wages, therefore it will not be justified to continue the suspension order.

9. Petitioner has undertaken that he will not indulge any more in such activities.

10. In view of the aforesaid statement, the petitioner is allowed to work subject to the condition that he will not be entitled to claim back wages for the period for which he was suspended. However, he will be permitted to join the services. However, the current wages alone shall be paid to the petitioner from 1st July, 2004.

11. Subject to the aforesaid observations, the Writ Petition No. 1502 (S/S) of 2003 is allowed. There will be no order as to costs.