

(1983) 09 SC CK 0045

In the Supreme Court Of India

Case No : Civil Appeal No. 8452 (NL) of 1983

Jaswant Singh

APPELLANT

Vs

Pepsu Roadways Transport Corporation and Another

RESPONDENT

Date of Decision : 19-09-1983

Acts Referred:

Industrial Disputes Act, 1947 — Section 11A

Citation : AIR 1984 SC 355 : (1984) 49 FLR 193 : (1984) LabIC 7 : (1984) 1 LLJ 33 : (1984) 1 SCC 35 : (1984) 1 SLJ 244

Hon'ble Judges : D. A. Desai, J;A. N. Sen, J

Bench : Division Bench

Final Decision : allowed

Judgement

1. Special leave granted.

2. The appellant is a driver employed by respondents. While on duty he consumed liquor. This constitutes misconduct under the relevant Standing Order. An enquiry was held and as a disciplinary measure he was dismissed from service. An industrial dispute was raised questioning the correctness of dismissal from service of the appellant and the matter was referred to the Labour Court, Patiala. The Presiding Officer Labour Court held that the driver was drunk but looking to the circumstances of the case the punishment of dismissal from service is rather on the heavier side and therefore, he directed reinstatement of the appellant in service denying back wages. The High Court in civil writ petition by respondent-employer set aside the decision of the Labour Court directing the reinstatement of the appellant holding that the jurisdiction u/s 11-A was exercised on extraneous and irrelevant considerations. The High Court confirmed; the punishment of dismissal from service. Hence this appeal by special leave.

3. We are also clearly of the opinion that a driver of a passenger bus or for that matter any mechanically propelled vehicle cannot and should not consume intoxicating liquor while on duty because that endangers the safety not only of

those in the vehicle but of those using the roads also. However, looking to the conduct of the appellant it appears to be his first offence and the Labour Court in exercise of its jurisdiction u/s 11A of the Industrial Disputes Act was of the opinion that in the facts of the case punishment of dismissal was rather heavy and was not called for and therefore, reduced the punishment. But the reduction was to a level namely mere refusal of back wages, which would be inadequate punishment in the facts of this case.

4. Having heard Mr. R.S. Sodhi, learned Counsel for respondent employer, we are of the opinion that the Labour Court was right and justified in directing reinstatement of the appellant in service. Further appellant is not entitled to back wages for the reasons that appealed to Labour Court. This is not adequate penalty for the misconduct proved. In our opinion to keep the appellant within the bounds of well-disciplined conduct a further punishment is also called for and should be imposed so that our humanistic approach may not induce him to repeat his intemperate performance. Accordingly, we direct that the appellant should not be given three increments in the time scale in which he would be reinstated, for the next three years. For all other benefits he will be treated as continuing in service. The appeal is allowed to the extent herein indicated with no order as to costs.