

(2000) 09 KAR CK 0058

In the Karnataka High Court

Case No : Writ Petition No. 16526 of 1997 (LK) .

Karnataka State Road Transport Corporation and Another

APPELLANT

Vs

Ramachandra and Another

RESPONDENT

Date of Decision : 12-09-2000

Acts Referred:

Industrial Disputes Act, 1947 — Section 10 (4-A)

Citation : (2001) 88 FLR 635 : (2000) ILR (Kar) 4497 : (2001) 2 KarLJ 300

Hon'ble Judges : Kumar Rajaratnam, J

Bench : Single Bench

Advocate : Sri V. Mukund Menon, for the Appellant; Sri T.N. Raghupathy, for Caveator, Sri M.N. Ramanjeneya Gowda, A.G.A., for the Respondent

Judgement

Kumar Rajaratnam, J.—This is a Management's writ petition. This is yet another case brought before this Court where the Management has not led evidence before the Labour Court.

2. The 1st respondent-workman was working as a Conductor in the petitioner-Corporation. On 12-10-1983 the bus was checked and it was found that the respondent-workman had failed to issue tickets to 32 passengers travelling from Cheenya to Jakkanahally Cross despite collection of fare of 0-50 ps. from each of the passengers. He also failed to issue tickets to two passengers travelling from Cheenya to Melkote despite collection of fare of Re. 1.00 from each of them. The other allegation was that the workman had closed the stage entries in respect of Jakkanahally Cross and he had shown 42 tickets of 30 paise as sold, but in fact it was not so. On the basis of these allegations, a domestic enquiry was held and ultimately the workman came to be dismissed from service on 30-6-1984. Aggrieved by the order of dismissal, the workman filed an application u/s 10(4-A) of the Industrial Disputes Act.

3. The Labour Court at Annexure-C on a preliminary issue held that the domestic enquiry was not fair and proper. After that the Management did not lead evidence. The Labour Court on the basis of the evidence of the workman held

that the misconduct was not proved and granted the relief of reinstatement with full back wages.

4. The learned Counsel for the petitioners, Mr. Mukund Menon, strenuously submitted that there was enough materials before the Labour Court to hold that the misconduct was proved. This submission with great respect to the learned Counsel for the petitioner is fallacious. Once the domestic enquiry is held to be not fair and proper, a duty is cast on the Management to lead evidence, if no evidence is led, the award must follow in favour of the workman.

5. In these circumstances, the award passed by the Labour Court does not suffer from any infirmity. However, taking into account the facts and circumstances of the case and to put an end to this litigation once for all, it would be appropriate to modify the award by granting 75% back wages.

6. The award is modified to the extent that the petitioner shall reinstate the workman and the workman shall be entitled to 75% back wages with continuity of service and all other consequential benefits.

7. It is stated that the workman had already been reinstated pursuant to an interim order granted by this Court.

8. Time granted for payment of 75% back wages shall be three months, from the date of receipt of this order.

9. The writ petition is disposed of accordingly.