

(2000) 06 KAR CK 0033
In the Karnataka High Court
Case No : Writ Appeal No. 4276 of 1999

Karnataka State Road Transport Corporation

APPELLANT

Vs

M.N. Chawan

RESPONDENT

Date of Decision : 12-06-2000

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 11 A

Citation : (2000) ILR (Kar) 4841 : (2001) 2 KarLJ 80 : (2000) 4 KCCR 2419

Hon'ble Judges : Manjula Chellur, J;G.C. Bharuka, J

Bench : Division Bench

Advocate : Smt. Meera Ramachandran, for the Appellant; Sri Ramesh B. Anneppanavar, for the Respondent

Judgement

G.C. Bharuka, J.—This appeal has been preferred by the Karnataka State Road Transport Corporation questioning the validity of the order passed by the learned Single Judge directing reinstatement of the respondent with 50% back wages from the date of the reference, though it was conclusively found that the respondent who was employed as a driver, had consumed liquor and was found to be in drunken state while on duty.

2. On 9-8-1992, the respondent was put on duty for driving the Corporation's bus bearing No. MYF 9399 which was to proceed from Athani to Gangapur. When the bus was about to take its departure, a puncture was noticed in its rear wheel. Therefore, it was taken to Athani Depot for repairs. The respondent, after parking the bus at the depot, suddenly disappeared by deserting the bus. Nonetheless, the bus was repaired within half an hour and was taken to the bus stand by the depot mechanic. After some time, the respondent-driver appeared in a drunken state. The passengers, on noticing his condition, objected to his driving of the bus. The depot manager, on noticing his condition and the objections raised deputed another driver for driving the said bus. The respondent was taken for a medical examination. The medical officer certified that he was in

a drunken state. Accordingly, he was subjected to disciplinary proceedings and after due enquiry, he was dismissed from service. Thereafter, the respondent raised an industrial dispute which was referred to the Labour Court. The Labour Court found that the disciplinary enquiry was conducted in a just and fair manner and even on reappreciation of evidence led by the management and the workmen, it concluded that the respondent was found to be in a drunken condition while on duty. Nonetheless, the Labour Court substituted the punishment of dismissal with that of reinstatement with 50% back wages.

3. On being questioned by the Corporation in writ jurisdiction, the learned Single Judge despite having noticed that retention of an employee like the respondent in the services of the appellant-Corporation will be a menace, has still upheld his reinstatement with 50% back wages from the date of reference.

4. The Supreme Court in its recent judgment in the case of U.P. State Road Transport Corporation Vs. Subhash Chandra Sharma and Others, , after reviewing the earlier cases referring to the scope and extent of the powers of the Labour Court as also this Court, u/s 11-A of the Industrial Disputes Act and keeping in view the facts and circumstances of the case that the workman was found to be guilty of misconduct of coming on duty in a drunken state, has held that.--

"The Labour Court was not justified in interfering with the order of removal of the respondent from service when the charge against him stood proved. Rather we find that the discretion exercised by the Labour Court in the circumstances of the present case was capricious and arbitrary and certainly not justified. It could not be said that the punishment awarded to the respondent was in any way "shockingly disproportionate" to the nature of the charge proved against him. In our opinion, the High Court failed to exercise its jurisdiction under Article 226 of the Constitution and did not correct the erroneous order of the Labour Court, if allowed to stand, would certainly result in miscarriage of justice".

5. In the present case, it has been conclusively found that the respondent-driver had consciously consumed liquor while on duty and if not objected by the vigilant passengers he would have driven the bus endangering not only their lives but also lives of pedestrians and the occupants of other vehicles on the road. Certainly, it was a misconduct so grave in nature which cannot be viewed with any leniency. The Courts while dealing with such misconduct on the part of the driver of heavy vehicle and that too of a public road transport corporation which is established to ensure public safety and convenience cannot fall prey to the pleas of misplaced sympathy. Awarding of punishment has to be weighed keeping in view the interest of the public at large and the travelling passengers. The disciplinary actions are taken more as preventive measure so that it may work as an effective warning against other employees to behave befitting their duties and maintaining due discipline in the establishment.

6. In the case of State of Karnataka Vs. Krishna alias Raju, , while holding that

the drivers found guilty of rash and negligent driving should be subjected to severe punishment, had held that "consideration of undue sympathy in such cases will not only lead to miscarriage of justice but will also undermine the confidence of the public in the efficacy of the criminal judicial system".

7. Again, recently, in the case of Dalbir Singh v State of Haryana and Others, it has been held that.--

"A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident; or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly that even if he is convicted he would be dealt with leniently by the Court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of vehicle he cannot escape from jail sentence. This is the role which the Courts can play, particularly at the level of Trial Courts, for lessening the high rate of motor accidents due to callous driving of automobiles".

8. In our opinion what has been said by the Supreme Court regarding awarding of sentences against the drivers in criminal proceedings applies with more vigour while dealing with misconduct of such drivers in departmental proceedings. If the management is allowed to take stern action against the erring drivers found to be guilty of consuming liquor and thereby risking the lives of passengers and pedestrians, then under no situation the same should be interfered with by the Courts by showing misplaced leniency, benevolence and purported pleas of livelihood.

9. Keeping in view the facts and circumstances of this case, in our opinion, neither the Labour Court nor the learned Single Judge was justified in substituting the order of dismissal from service with that of reinstatement with back wages. Accordingly, we set aside the order dated 15-9-1998 passed by the learned Single Judge and quash the award dated 3-7-1996 passed by the Labour Court.

10. For the aforesaid reasons, the order dated 15-9-1998/16-11-1998 passed by the learned Single Judge is set aside and the award dated 3-7-1996 passed by the Industrial Tribunal, Hubli, in Industrial Disputes No. 248 of 1991 is quashed. The order of the appellant-Corporation dismissing the respondent from service is restored.

11. In the result, the appeal is allowed. However, there will be no order as to costs.