

(2016) 12 KAR CK 0064

In the Karnataka High Court

Case No : Writ Petition No. 31705 of 2011 (L-KSRTC)

Karnataka State Road Transport Corporation

APPELLANT

Vs

Radhakrishna

RESPONDENT

Date of Decision : 14-12-2016

Acts Referred:

Industrial Disputes Act, 1947 — Section 110(1) (c) (d)

Citation : (2017) 1 AirKarR 723

Hon'ble Judges : B. Veerappa, J.

Bench : Single Bench

Advocate : Smt. H.R. Renuka, Advocate, for the Appellant; K.B.

Harayanaswamy, Advocate for M.C. Narasimhan, Associates, for the Respondent

Final Decision : Allowed

Judgement

B. Veerappa, J.—The petitioner/corporation filed the present writ petition against the impugned award dated 30.09.2010 made in I.D. No. 260/ 2007 on the file of the Industrial Tribunal, Bengaluru, allowing-in-part the reference and directing the Disciplinary Authority to reconsider its punishment order in the light of the judgment of acquittal passed by the criminal Court in C.C. No. 14955/2000 dated 24.02.2006.

2. It is the case of the petitioner/Corporation that the respondent/workman is appointed as Driver in the establishment of the petitioner/Corporation and he has been working. On 11.02.2000, when the respondent/Workman was on duty, he has violated traffic rules with his arrogant behaviour and was responsible for traffic jam for about 40 minutes. Thus, the articles of charge was issued to the respondent/workman on 23.02.2000 and the workman had replied to the same on 10.03.2000. Being unsatisfied with the explanation offered, the petitioner initiated enquiry and the respondent/workman has participated in the said enquiry proceedings. Thereafter, the Disciplinary Authority, accepting the report of the Enquiry Officer, imposed an order of punishment by the order dated 28.02.2005 by reducing the pay of the workman by one increment with

cumulative effect. Subsequently, the criminal case has been registered against the respondent/workman, which ended in his acquittal on 24.02.2006.

3. Thereafter, respondent raised through the Union, which was referred to the Industrial Tribunal for adjudication under Section 10(1)(c)(d) of the Industrial Disputes Act, on 19.10.2007. The Industrial Tribunal by the order dated 05.12.2009 answered the preliminary issue in the affirmative and held that the domestic enquiry was fair and proper. After considering the entire materials, the Tribunal, by the impugned award dated 30.09.2010, remanded the matter to the Disciplinary Authority for reconsideration on the ground that the respondent/workman was acquitted in a criminal case. Hence, this present writ petition.

4. I have heard the learned Counsel for the parties to the lis.

5. Smt. H.R. Renuka, learned counsel for the petitioner/Corporation, has vehemently contended that the impugned award passed by the Tribunal remanding the matter to the Disciplinary Authority mainly on the ground that the workman was acquitted in criminal case is totally without jurisdiction. She has further contended that mere acquittal of the workman in a criminal case on benefit of doubt is not a ground to set-aside the punishment imposed by the Disciplinary Authority. The acquittal is nothing to do with the Disciplinary Authority to proceed with the enquiry. Therefore, she has contended that the Tribunal ought to have decided the matter instead of remanding the same to the Disciplinary Authority. Hence, sought to set-aside the impugned award passed by the Tribunal by allowing the petition.

6. Per contra, Sri. Narayana Swamy K.B., learned Counsel for the respondent/workman, fairly submits that the Tribunal should not have remanded the matter to the Disciplinary Authority and the Tribunal itself ought to have decided the matter on merits irrespective of the acquittal order passed in the criminal case. He further submits that when the Disciplinary Authority passed the impugned punishment, the acquittal order was not before the Disciplinary Authority, therefore, on those circumstances, Tribunal remanded the matter. Therefore, he has submitted that the Tribunal ought to have decided the dispute considering the acquittal order instead of remanding the same.

7. Having heard the learned Counsel for the parties to the lis, the only point that arises for consideration is:

"Whether the Industrial Tribunal is justified in remanding the matter only on the ground of acquittal of respondent/workman in a criminal case?"

8. The materials on record clearly indicates that the respondent/workman has been working as Driver in the establishment of petitioner-Corporation and during the course of regular duty on 11.02.2000 according to the Corporation, respondent/workman has violated the traffic rules and hence, there was a traffic jam for about 40 minutes. Therefore, articles of charge was issued to the respondent/workman and he was subjected to disciplinary enquiry. On the basis

of the enquiry report, the Disciplinary Authority proceeded to impose punishment by reducing the pay of the workman by one increment with cumulative effect. Aggrieved by the same, the dispute was raised through Union, the same was referred to the Industrial Tribunal for adjudication. The Industrial Tribunal answered the preliminary issue in the affirmative and held that the domestic enquiry was fair and proper. Thereafter, the Tribunal by its order dated 30.09.2010 passed in LD. No. 260/2007 remanded the matter to the Disciplinary Authority on the ground that workman has been acquitted in a criminal case i.e., in C.C. No. 14955/2000 on 24.02.2006.

9. The Industrial Tribunal ought to have considered the dispute on merits instead of remanding the matter to the Disciplinary Authority only on the ground that workman has been acquitted in the criminal case in C.C.No. 14955/2000 on 24.02.2006, which was subsequent to the punishment imposed by the Disciplinary Authority. The Tribunal while exercising powers under the provisions of Section 10(1)(c)(d) of the Industrial Disputes Act, has to decide the dispute on merits instead of remanding, which is totally without jurisdiction.

10. It is well settled law that even the acquittal of workman in a criminal case on benefit of doubt is not a ground to remand the matter. Hence, the Tribunal ought to have considered the acquittal order while deciding the dispute on merits, the same has not been done in the present case. Therefore, the point raised in the present petition has to be answered in the "Negative" holding that the Tribunal is not justified in remanding the matter to the Disciplinary Authority for reconsideration.

11. For the reasons stated above, the writ petition is allowed. The impugned award dated 30.09.2010 passed in I.D.No.260/2007 on the file of Industrial Tribunal, Bengaluru, is hereby quashed and the matter is remanded to the Industrial Tribunal, Bengaluru, for adjudication on merits in accordance with law.

The Industrial Tribunal shall decide the dispute between the parties to the lis on merits within a period of four (4) months from the I date of receipt of copy of this Order.

Parties are directed to appear before the Industrial Tribunal on 10.01.2017.