

(2000) 03 KAR CK 0112
In the Karnataka High Court
Case No : Writ Petition No. 4627 of 2000

Karnataka State Road Transport Corporation, Bangalore

APPELLANT

Vs

Pampareddy

RESPONDENT

Date of Decision : 06-03-2000

Acts Referred:

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

Citation : (2001) 2 CivCC 478 : (2000) 5 KarLJ 207 : (2002) 3 RCR(Civil) 379

Hon'ble Judges : Kumar Rajaratnam, J

Bench : Single Bench

Advocate : Smt. Renuka, for the Appellant; Sri V.S. Naik, for the Respondent

Judgement

1. The writ petition is taken up with the consent of parties.
2. This is a management writ petition. The KSRTC challenges the award passed by the Labour Court at Annexure-D and the order on preliminary issue at Annexure-A.
3. The respondent was a conductor under the petitioner-Corporation. The allegation against the respondent was that he failed to issue tickets of the denomination of Rs. 2.25 despite collection of the fare to 12 passengers. The misconduct alleged to have taken place on 6-9-1993. There was a domestic enquiry and ultimately the workman-respondent came to be dismissed from service on 29-9-1994. Aggrieved by the order of dismissal, a dispute was raised u/s 10(4-A) of the I.D. Act.
4. On a preliminary issue, the Labour Court held that the domestic enquiry was not fair and proper. The matter was taken up on merits. Unfortunately in this case the management did not lead evidence for nearly four years. The Labour Court notwithstanding this passed an award setting aside the dismissal and allowing 50% of back wages with continuity of service.
5. On the question of Issue No. 1, with respect to domestic enquiry, it was

submitted by the learned Counsel for the petitioner that there was no failure of principles of natural justice since the workman was examined on 14-10-1993 and on the same day the management witnesses had been examined. According to the Labour Court this was a clear violation of Rule 23(11) of C and D Regulations. In these circumstances, it would not be appropriate to interfere with the finding on domestic enquiry.

6. The learned Counsel for the petitioner submitted that the award suffers from infirmity insofar as the management ought to have been given an opportunity to lead the evidence.

7. In this case, the workman was reinstated pursuant to the orders on domestic enquiry. The management cannot be expected to take its own sweet time to examine the witnesses, once the domestic enquiry was held to be not fair and proper. The management should have been vigilant in examining the witnesses with respect to the misconduct. In the absence of the management promptly examining the witnesses, the Labour Court had no alternative except to allow the reference. Needless to say that the Labour Court was extremely cautious in awarding only 50% back wages.

8. In the circumstances, I do not see any infirmity in the award passed by the Labour Court.

9. The writ petition is disposed of. The respondent shall be reinstated within eight weeks from the date of receipt of this order. Time granted for payment of back wages as stipulated in the award shall be three months from the date of receipt of this order.