

(2001) 06 KAR CK 0019
In the Karnataka High Court
Case No : W.A. No. 4877 of 2000

Karnataka State Road Transport Corporation Central Offices
Vs
Durgappa

APPELLANT
RESPONDENT

Date of Decision : 28-06-2001

Acts Referred:

Industrial Disputes Act, 1947 — Section 11 A

Citation : (2001) 91 FLR 1156 : (2001) ILR (Kar) 3971 : (2001) 4 KCCR 211
SN : (2002) 1 LLJ 41

Hon'ble Judges : Chidananda Ullal, J; Ashok Bhan, J

Bench : Division Bench

Advocate : L. Govindraj, for the Appellant; Shreeshaila Turkani, for the Respondent

Final Decision : Allowed

Judgement

Chidananda Ullal, J.—This Writ Appeal is filed by the Karnataka State Road Transport Corporation to challenge the order dated June 30, 2000 in W.P. No. 15317/1998 passed by the learned single Judge of this Court. In passing the said order, the learned single Judge while confirming the order of reinstatement passed by the Labour Court, he had reduced the back wages from 75% to 25%.

2. The learned counsel appearing for the appellant-Karnataka State Road Transport Corporation, henceforth in brief referred to as the KSRTC, Sri Govindaraj, argued that it was a clear case of pilferage of the revenue of the KSRTC and further more, it was also a case that the respondent-workman was involved in 30 cases of such pilferages earlier to the incident of pilferage in the case in hand. It was also pointed out by him that the Labour Court had held the dispute in favour of the respondent-workman on the ground that the charge was not proved. According to Sri Govindaraj, the Labour Court would have as well held that the charge in this case was proved, that the dismissal of the respondent workman was just and proper in view of the gravity of the charge that he had not issued tickets to 10 passengers with an ulterior motive to make

illegal gain at the cost of his employer.

3. The learned counsel appearing for the respondent-workman on the other side supported the impugned order. He had also pointed out that the learned single Judge while confirming the award of the Labour Court, reinstating the workman, the learned single Judge has also reduced the back wages from 75% to 25%.

4. In the facts and circumstances of the case, it appears to us that both the Labour Court as well as the learned single Judge were not right in reinstating the respondent-workman with certain back wages as stated above, for one cannot forget here that the respondent-workman was found to be a history-sheeter, inasmuch as he was involved in 30 such cases of pilferages earlier to the incident in question. In this case in hand the respondent-workman was charged that, out of the 10 passengers in the bus, he had not issued tickets to 7 passengers despite having collected the fare from them. Therefore, it is clear that the respondent-workman had indulged in pilferages of the monies of the employer and that kind of activities had gone on during his service earlier as many as on 30 occasions.

5. In this context, it is relevant to point out that in the case of State of Haryana and Another Vs. Rattan Singh, , the Supreme Court had held as hereunder:

"The sufficiency of evidence in proof of the finding by a domestic Tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the Court to look into because it amounts to an error of law apparent on the face of record.

Where a bus conductor of a State Transport undertaking was charge sheeted for not collecting fares from certain passengers and on his guilt being established there was simple termination of his services because of his long services and young age, it could not be said that merely because statements of passengers were not recorded by the Inspector of the flying squad, the order that followed was invalid. The evidence of the Inspector was some evidence which had relevance to the charge against the bus conductor, order of simple termination of services was valid."

6. Even otherwise, as we see, the latest thinking of the Supreme Court is not to show misplaced sympathy while exercising the jurisdiction u/s 11-A of the Industrial Disputes Act, for, that would breed indiscipline in the service and the Courts cannot be a party to the breeding of indiscipline amongst the employees.

7. In the Division Bench ruling of this Court reported in the case of Mullur K.G. Vs. Management of K.S.R.T.C., Belgaum Division, , the Division Bench of this Court (the first of us was speaking for the Bench in another combination) had held as hereunder:

"The observation of the Supreme Court, a gist of which has been reproduced above, would apply to the facts of this case as well. Non-issuance of tickets after collecting fare and failure to issue tickets and collect the fare from the

passengers has to be attributed to either gross negligence or dishonest intention of the appellant. The charges levelled against the appellant therefore stood proved. In the face of proven charge, the only punishment as per the order of the single Judge suffered by the appellant is denial of back wages. We have our doubts as to whether the denial of back wages by itself would be a punishment in a case where the charge of misappropriation is proved. We refuse to record a positive finding at this stage as the Corporation has not filed any appeal against the order of the single Judge. Appellant would not be entitled to back wages where the charge of misappropriation is proved. He cannot be rewarded with wages without having worked, it would be like showing a thumb to employer; "although you have proved the charge, but still here I come with the order of reinstatement in service with continuity and back wages". It would breed indiscipline in the service and the Courts cannot be a party to the breeding of indiscipline amongst the employees. A case for interference with the order of the single Judge at the instance of the appellant in any case is not made out."

8. The Bench in fact observed as above, in following the Supreme Court decision in the case of Karnataka State Road Transport Corporation Vs. B.S. Hullikatti, .

9. In the instant case too, it appears to us that both the Labour Court as well as the learned single Judge would have confirmed the order of dismissal of the respondent-workman for the proven guilt of the respondent-workman.

10. In that view of the matter, the impugned order dated March 17, 1997 passed by the Labour Court in Dispute No. 36/1994 and further the order of the learned single Judge impugned herein, in ordering for reinstatement of the respondent-workman with certain part of the back wages, more fully stated as above, stand set aside; in the process, the order dated February 15, 1994 passed by the appellant-KSRTC dismissing the respondent-workman from the service is restored. It is therefore obvious that the respondent-workman stands to be discharged from service, in the event he was already reinstated in terms of the order of the learned single Judge as a consequence of this order.

11. No costs.