
(1987) 01 RAJ CK 0004

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2396 of 1986

Mangi Lal

APPELLANT

Vs

Rajasthan State Road Transport Corporation and Another

RESPONDENT

Date of Decision : 22-01-1987

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 12

Citation : (1987) WLN 216

Hon'ble Judges : Kishore Singh Lodha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Kishore Singh Lodha, J.—Petitioner Mangilal, while working as a Conductor with the Rajasthan State Road Transport Corporation, was charge-sheeted for carrying six passengers without tickets on 12-9-78 on Nathdwara-Mawli route in Bus No. 3373. After enquiry, he was found guilty of the charge and the punishment of removal from service was inflicted upon him by the Disciplinary Authority by order dated March 5, 1980. He filed an appeal, but without success. Thereafter, the matter was taken by the Labour Welfare and Conciliation Officer. However, no settlement could take place. Therefore, the Conciliation Officer reported the matter to the State Government u/s 12(4) of the Industrial Disputes Act for making reference to the Labour Court. However, the State Government refused to make a reference by its order Annx 10. Aggrieved of this, the petitioner has approached this Court. The State Government has observed in its order Annx. 10 that the punishment has been inflicted after carrying out a proper enquiry and, therefore, the State Government does not deem it proper to make a reference. In my opinion, the State Government could not have refused to make reference and could not have taken upon itself to decide the question whether the punishment had been properly inflicted or not after due enquiry. It has been observed by their Lordships of the Supreme Court in Ram Avtar Sharma and Others Vs. State of Haryana and Another, as under:

Now if the Government performs an administrative act while either making or refusing to make a reference u/s 10(1), it cannot delve into the merits of the dispute and take upon itself the determination of lis. That would certainly be in excess of the power conferred by Section 10. Section 10 requires the appropriate Government to be satisfied that an industrial dispute exists or is apprehended. This may permit the appropriate Government to determine prima facie whether an industrial dispute exists or the claim is frivolous or bogus or put forth for extraneous and irrelevant reasons, not for justice or industrial peace or harmony. Every administrative determination must be based on grounds relevant and germane to the exercise of power. If the administrative determination is based on grounds irrelevant, extraneous or not germane to the exercise of power, it is liable to be questioned in exercise of power of judicial review. In *State of Bombay Vs. K.P. Krishnan and Others*, it was held that a writ of mandamus would lie against the Government if the order passed by it u/s 10(1) is based on or induced by reasons which, as given by the Government are extraneous irrelevant and not germane to the determination. In such a situation the court would be justified in issuing a writ of mandamus even in respect of an administrative order. May be, the Court may not issue writ of mandamus, directing the Government to make a reference but the Court can after examining the reasons given by the appropriate Government for refusing to make a reference come to a conclusion that they are irrelevant extraneous or not germane to the determination and then can direct the Government to reconsider the matter. This legal position appears to be beyond the pale of controversy.

The same view has been taken by this Court in S.B. Civil Writ Petition No. 2147 of 1985: *Devisingh v. State and Ors.* decided on Sept. 25, 1986. following the view of the Hon"ble Supreme Court. In this view of the matter, the order of the State Government refusing to make a reference, cannot be sustained.

2. The writ petition is, therefore, allowed. The order Annx. 10 is set aside and the State Government is directed to reconsider the matter.

3. In the circumstances of the case, I shall make no order as to costs.