

(2000) 06 MP CK 0033

In the Madhya Pradesh High Court

Case No : Writ Petition No. 4399 of 1997

Mathura Prasad Dixit

APPELLANT

Vs

Managing Director, M.P.S.R.T.C. and Another

RESPONDENT

Date of Decision : 22-06-2000

Acts Referred:

Constitution of India, 1950 — Article 227

Madhya Pradesh Industrial Relations Act, 1960 — Section 31(3)

Citation : (2000) 87 FLR 632 : (2001) 3 LLJ 1039

Hon'ble Judges : Shahi Kant Kulshreshtha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.K. Kulshrestha, J.—By this petition, the petitioner has challenged the order dated July 16, 1997 (Annexure-P/9) of the Industrial Court, Jabalpur passed in Appeal No. 231 /MPIR/96, insofar as the said order has declined to award back wages to the petitioner while directing his reinstatement in service.

2. The petitioner was initially appointed on the post of Lower Division Clerk in the respondent M.P. State Road Transport Corporation and thereafter he was entrusted the work of trip sheet checking. While he was so engaged, a notice was issued to him intimating him that by not properly checking the trip sheet he had caused loss to the Corporation and had committed misconduct as defined in S.S.O. 12(1)(b) and (d). Eventually, by order dated November 2, 1992, he was found guilty of misconduct and was dismissed from service.

The petitioner challenged his dismissal before the Labour Court by an application u/s 31(3) of the M.P. Industrial Relations Act. The Labour Court although held that the domestic enquiry was illegal and improper, it found the misconduct proved on the basis of the evidence adduced by the employer before the Court and dismissed the application. The petitioner filed an appeal u/s 65 of the M.P.I.R. Act before the Industrial Court, Jabalpur. The Industrial Court, Jabalpur, while concurring with the Labour Court with regard to the finding that the

misconduct alleged against the petitioner had duly been established, observed that even in cases of more serious lapses, other employees had been retained by the Corporation in service and, therefore, the dismissal of the petitioner from service, in the facts and circumstances of the case, was not justified. The Industrial Court thus interfered in the quantum of punishment and directed reinstatement of the petitioner without back wages.

3. Learned counsel for the petitioner has submitted that domestic enquiry was held to be improper by the Labour Court and the punishment imposed by the Department was found to be harsh even by the Industrial Court and, in the facts and circumstances of the case, the Industrial Court ought not to have declined back wages while directing reinstatement of the petitioner. It is not a case where the petitioner has not been found guilty of misconduct alleged against him or has been found guilty of misconduct not as grave as the one alleged. In fact, the Industrial Court has concurred with the Labour Court insofar as the finding of misconduct having been proved against the petitioner is concerned and his reinstatement has been directed only on the ground that in several other cases of employees against whom such delinquency, was proved, they were retained in service. Since the back wages have been withheld because misconduct has been proved, no ground has been made out by the learned counsel for the petitioner calling for any interference in exercise of the power under Article 227 of the Constitution. The petition is, accordingly, dismissed with no order as to costs.