

(2013) 01 AHC CK 0418

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 7430 of 1999

Narain Singh Maher

APPELLANT

Vs

U.P. State Road Transport Corporation and Others

RESPONDENT

Date of Decision : 09-01-2013

Acts Referred:

Citation : (2013) 2 AWC 2028 : (2013) 137 FLR 73

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Advocate : R.K. Jain and Rahul Jain, for the Appellant; Samir Sharma, S.C., for the Respondent

Final Decision : Dismissed

Judgement

Rajes Kumar, J.—Heard Sri Rahul Jain, learned Counsel for the petitioner and Sri Samir Sharma, learned Counsel appearing on behalf of the respondents. The petitioner was a Conductor with the U.P. State Road Transport Corporation (In short "UPSRTC"). By the order dated 31st August, 1996, passed by the Regional Manager, Bareilly, the petitioner has been terminated from the service against which the petitioner filed the appeal, which has been dismissed by the order dated 9th September, 1997, thereafter, the petitioner filed a representation before the Regional General Manager, UPSRTC, which too has been rejected by the order dated 11th August, 1999. All the aforesaid order are impugned in the present writ petition.

2. The services of the petitioner have been terminated on the ground that on 4th August, 1993, while he was posted at Shahjahanpur Depot and was carrying the Bus No. UP-25/6079 from Shahjahanpur to Lakhimpur, on the way when the said vehicle was inspected, total 36 passengers were found travelling in the Bus out of which seven passengers were found travelling without ticket, though the fare from Shahjahanpur to Mohammadpur has been charged from them and the entry of tickets of 29 passengers have also not been properly made in the route sheet. Further, on 25.12.1994, while the petitioner was on duty on Bus Number UPL

838, on the route of Gola-Mohammadipur, when the vehicle was inspected near Ganeshpur, total 75 passengers were found travelling in the Bus without ticket.

3. On the aforesaid allegations, initially the petitioner was suspended and the enquiry proceeding was initiated. In the enquiry proceeding, the charges levelled against the petitioner were found proved. On the receipt of the enquiry report, the petitioner has been issued a show-cause notice by the Disciplinary Authority to which the petitioner filed the reply and on the consideration of the enquiry report and the reply of the petitioner, the impugned termination order has been passed.

4. In the enquiry proceeding as well as before the Disciplinary Authority, in respect of the inspection dated 4th August, 1993, the petitioner contended that since he has taken the charge only two days" earlier, therefore, he was not aware about the fare from Shahjahanpur to Mohammadpur and the fare list was also not available, thus, the fare was being taken after asking from the Driver. In respect of the allegation relating to the inspection dated 25th December, 1994, it was contended by the petitioner that he was suffering from vomiting and was ailing as such was not in a position to join the duty and this fact was told by him to the Station Incharge, but on his direction, he went along with the vehicle and since he became unconscious, therefore, he could not issue the tickets and has signed the inspection report.

5. Learned Counsel for the petitioner submitted that one of the allegation in respect of the inspection dated 4th August, 1993 was that he was in drunken position, but said allegation could not be proved. In respect of other allegations, he has reiterated the plea taken by the petitioner during the enquiry proceeding and before the Disciplinary Authority and submitted that there is no reason to disbelieve the explanation of the petitioner and in the circumstances, the termination from service is not justified.

6. Sri Samir Sharma, learned Counsel appearing on behalf of the respondents, supported the impugned orders.

7. I do not find any substance in the argument of learned Counsel for the petitioner.

It is not in dispute that in the inspection dated 4th August, 1993, it was found that tickets to seven passengers, who were traveling in the Bus, was not issued by the petitioner, though they have paid the fare. It is wholly unbelievable that the petitioner was not aware about the fare from Shahjahanpur to Mohammadpur. The job of a Conductor is only to issue the tickets to the passengers and to ensure that none of the passengers may travel without ticket. Being a Conductor, he must have been aware about the fare. Therefore, it has been established that he wilfully allowed seven passengers to travel without tickets, though he has received fare and his intent was to embezzle the same. So far as the charge relating to the inspection dated 25th December, 1994 is concerned, it is not in dispute that he was on duty and 75 passengers were found

traveling in the bus without tickets. No ticket was issued to any of the passenger. The contention of the learned Counsel for the petitioner that the petitioner has produced two passengers during the enquiry proceedings, who have stated that they have not paid the fare. It is wholly irrelevant. The duty of a Conductor is to ensure that all the passengers should be issued proper ticket and none of the passenger should travel without ticket. On both occasions, the petitioner was found guilty of not issuing the tickets to the passengers and allowed the passengers to travel without ticket thereby causing financial loss to the employer and also breaching faith and trust of the employer. The relation of the conductor of a Bus and the employer is based on faith and trust, which has been shaken in the present case by the misconduct of the petitioner.

8. My view finds from the decisions of the Apex Court in the cases of U.P. State Road Transport Corporation, U.P. State Road Transport Corporation, Dehradun Vs. Suresh Pal, and Karnataka State Road Transport Corporation Vs. B.S. Hullikatti, . In the case of Regional Manager, U.P.S.R.T.C., Etawah and Others Vs. Hoti Lal and Another, . the Apex Court has observed that if the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable. In view of the aforesaid facts and circumstances, I do not find any reason to interfere in the impugned orders. In the result, the writ petition fails and is dismissed.