

(2002) 08 AHC CK 0092
In the Allahabad High Court
Case No : C.M.W.P. No. 31847 of 1999

Narendra Kumar Sharma

APPELLANT

Vs

U.P. State Road Transport Corporation and Another

RESPONDENT

Date of Decision : 16-08-2002

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 10, 4K

Citation : (2002) 4 AWC 2965 : (2002) 95 FLR 179

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Bhoopendra Nath Singh, for the Appellant; M.M. Sahai, S.C., for the Respondent

Judgement

Anjani Kumar, J.—The petitioner aggrieved by the award dated 6th August, 1998, passed in Adjudication Case No. 14 of 1994 by the Labour Court, Rampur has filed the present writ petition. The following dispute was referred by the State of U. P. in exercise of its power u/s 4K of the U. P. Industrial Disputes Act, 1947, before the Labour Court, Rampur, for adjudication :

^^D;k Isok;ksatdksa }kjk Jh ,u- ds- "kekZ iq= Jh ,- ih- "kekZ dh Isok;sa fnukad 21-7-1992 ls lekIr fd;k tkuk mfpr@oS/kkfud gS A ;fn ugha rks lacaf/kr Jfed fdl fgrykHk@vuqrks"k ikus dk vf/kdkjh gS rFkk fdu vU; fooj.kksa lfgr** A

2. After affording opportunity to the learned counsel for the parties to exchange their pleadings and to adduce their evidence, the labour court has recorded a finding that the enquiry conducted by the employer was neither fair nor proper. The workman was not afforded any opportunity much less reasonable opportunity to defend his case and that the enquiry was against the principles of natural justice. The labour court, therefore, has held that the termination of the service of the concerned workman-petitioner was illegal and void, but considering the facts and circumstances of the case, the labour court has held that the ends of justice will be met if only wages since 21st July, 1992 upto the date of award is not paid. It is this finding which has been challenged by the

concerned workman-petitioner by means of the present writ petition.

3. It is submitted by Sri B. N. Singh, learned counsel for the petitioner that once the labour court comes to the conclusion that the enquiry conducted by the employer was neither fair nor proper and further that the workman concerned was not afforded due opportunity meaning thereby that the charges levelled against the petitioner were not proved in accordance with law.

4. In this view of the matter, the observation of the labour court that the workman should be imposed minor punishment of withholding of wages for the period during which he was suspended and during the period when the matter was pending before the labour court was untenable under law. No one appears on behalf of the respondents.

5. I have considered the submission submitted by Sri Singh and I agree that the submission made by Sri Singh that once labour court comes to the conclusion that the charges are proved on the basis of domestic enquiry which was not proper and was conducted contrary to the principles of natural justice, it was not within the domain of the labour court to impose penalty. Therefore, the award of the labour court requires modification.

6. iN view of what has been stated above, the award of the labour court is modified to the extent that the workman concerned is not liable for punishment as has been imposed by the labour court and the workman should have been awarded full back wages with continuity of service.

7. With the aforesaid modification, this writ petition is disposed of Finally. There is no order as to costs.