
(1991) 11 RAJ CK 0009
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1830 of 1981

Raghuvir Singh

APPELLANT

Vs

Rajasthan State Road Transport Corporation

RESPONDENT

Date of Decision : 12-11-1991

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (1991) WLN 184

Hon'ble Judges : Rajesh Balia, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajesh Balia, J.—In the above writ petition, the petitioner challenges the order of his termination dated 26.6.1981 (Ex. 3).

2. The undisputed facts of the case are that the petitioner was first appointed as Security Guard in the pay scale of Rs. 250-380 on 17.11.1978 with the Rajasthan State Road Transport Corporation and he continued in its service until his services were terminated by the order Ex. 3 dated 26.6.1981. The impugned order simply states that the services of the petitioner are no more required and, therefore, his services are brought to an end. Reference has made to Rule 13(ii) of the Raj. State Road Transport Workers & Workshop Employees Standing Orders, 1965. It has also been placed on record that just before the order of termination, a complaint was made against the petitioner by the Corporation on 21.6.1981 on the allegation of theft and on 24.6.81, the petitioner was put under suspension.

3. The petitioner contends that in the facts and circumstances of this case, the order which has been couched as termination simpliciter is in fact punitive and he has been punished without holding any enquiry whatsoever for the alleged misconduct. Alternatively, it was submitted that if the order is not treated to be punitive but a case of termination simpliciter then too, the order is not

sustainable as the same has been passed in complete breach of the provisions of Chapter v. - A of the Industrial Disputes Act without giving him any notice and compensation as envisaged u/s 25F.

4. It was contended on behalf of the Corporation that the order should be taken to be on its face value and is not a punitive at all and, therefore, there was no need to conduct an enquiry. However, the fact that the provisions of Section 25F relating to giving of notice before termination and payment of compensation have not been complied-with, is not disputed but at the same time, Mr. Purohit contends that looking to the facts that a complaint in connection with commission of theft was lodged against the petitioner, in case of reinstatement, he should not be allowed any back wages. Both the learned Counsel were unable to state about final outcome of proceedings, taken against the petitioner in pursuance of FIR dated 21.6.1981.

5. I have given my anxious consideration to the rival submissions made the bar. I am of the opinion that the background in which the order has been issued, it cannot be treated as termination simpliciter. The fact that on 21.6.81, a complaint was lodged, on 24.6.81 petitioner was suspended and on 26.6.81, petitioner was dismissed from service, leads to an irresistible conclusion of the chain link between the three events. In these circumstances, the cloak of termination simpliciter given by the order Ex. 3 cannot be accepted. Undisputedly, the petitioner has been subjected to this punishment without holding any enquiry and without affording an opportunity to defend, therefore, the order is unsustainable. It may also be noticed that Rule 13(ii) of the Rajasthan State Road Transport Workers & Workshop Employees Standing Orders, 1965 to which reference has been made in the impugned order, has been held to be invalid and ultravires in a Full Bench decision of this Court in Bhanwar Lal etc. v. R.S.R. T.C. and Anr. report in 1984 R.L.R. page 619. In view of my conclusion on first contention, I do not propose to examine the alternative contention raised by the petitioner.

6. Accordingly, the order dated 26.6.1981 (Ex. 3) is hereby quashed. The Corporation will reinstate petitioner in service forthwith. However, the petitioner will be deemed to be under suspension for the period from 26.6.1981 to the date of reinstatement. The respondent Corporation will pass fresh orders in accordance with law taking into consideration the final outcome of criminal proceedings in pursuance of FIR dated 21.6.81. The Corporation will also pass appropriate order regarding pay for the period for which the petitioner is deemed to be under suspension in accordance with the relevant provisions of Standing Orders as a consequence of such order.

7. With the aforesaid directions, this writ petition is allowed without any order as to costs.