

(2004) 09 JH CK 0085
In the Jharkhand High Court
Case No : LPA No. 396 of 2004

Raj Kishore Singh

APPELLANT

Vs

Bihar State Road Transport Corporation and Others

RESPONDENT

Date of Decision : 28-09-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 4 JCR 343

Hon'ble Judges : M.Y. Eqbal, J; Hari Shankar Prasad, J

Bench : Division Bench

Advocate : V. Shivnath and Sandhya Sahay, for the Appellant; P.P.N. Roy and Praveen Kumar, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard Mr. V. Shivnath, learned counsel appearing for the appellant and Mr. P.P.N. Roy. learned counsel appearing for the respondents.
2. This appeal under clause 10 of the Letter Patent is directed against the judgment dated 21.4.2004 passed by the learned single Judge dismissing the writ petition being WP (S) No. 5925 of 2002.
3. The petitioner, who was working as Conductor in the Bihar State Road Transport Corporation, was charge-sheeted on the allegation that during inspection of the bus by the Traffic Inspector, it was found that altogether 92 passenger were sitting in the bus and only 13 passengers were issued ticket and rest 70 passengers were without ticket. A passenger of the bus stated that bus fare had already been realized from them but no ticket was issued. On the basis of this charge, inquiry officer conducted inquiry and submitted report. On the basis of the inquiry report disciplinary authority after giving second show-cause notice, dismissed the petitioner from service. The said dismissal was challenged by the appellant by filing writ petition which has been dismissed by the impugned judgment. For better appreciation. Para 14 to 18 of the judgment is quoted

herein below :-

"14. It is a settled law that in exercise of jurisdiction under Article 226 of the Constitution of India, the High Court cannot sit as a Court of appeal over the findings recorded in the departmental proceeding and cannot re-appreciate the evidence for itself to correct an error of fact and it cannot interfere with the findings on facts based on evidence and substitute its own independent finding,

Only enquiry, the High Court can make under Article 226 of the Constitution of India is as to whether the findings are based upon irrelevant consideration, is perverse, being not based on record and also on the ground that the findings are so unreasonable that no reasonable authority could have arrived at such a finding.

15. In order to verily the fact as to whether the petitioner was given sufficient opportunity to defend his case properly, the learned counsel for the respondent-Corporation was asked to produce the original records of the departmental proceeding and from the materials and documents in the original record, I find that sufficient opportunity was provided to the petitioner to defend his case and I further found that the prolonging the departmental enquiry for such a long time, the petitioner was also responsible for the same.

16. In the present case, I find that the findings of fact arrived at by the Enquiry Officer is wholly based on the basis of the materials and evidence on record and, therefore, it cannot be said to be perverse in any manner or not based on record and. therefore in my view, the findings on facts arrived at in the departmental enquiry does not call for any interference by this Court.

17. I do not find any illegality in the order contained in Annexure-11 imposing punishment in view of the serious charges against the petitioner, which was established on facts in course of departmental enquiry.

18. In view of my discussions and findings above, the submissions made on behalf of the petitioner cannot be accepted and thus is rejected. In the result, there is no merit in the application and, as such, is dismissed. No costs.

4. After considering submissions made by the learned counsel for the parties. we are of the view that neither there is any error of law nor there is any error of facts in the impugned Judgment. Hence, this appeal is dismissed having no merit.