

(1998) 02 RAJ CK 0064
In the Rajasthan High Court
Case No : Civil Writ Petition No. 521 of 1998

Rajasthan State Road Transport Corporation and Others	APPELLANT
Vs	
Inder Singh and Another	RESPONDENT

Date of Decision : 20-02-1998

Acts Referred:

Rajasthan State Road Transport Workers and Workshop Employees Standing Orders, 1965 — Order 36(ii)

Citation : (1998) 1 RLW 540 : (1998) 2 RLW 732 : (1998) 2 WLC 647 : (1998) 1 WLN 183

Hon'ble Judges : R.R. Yadav, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.R. Yadav, J.—Instant writ petition has been filed against the Award dated 31.8.1996 (Annex. 2) passed by Industrial Tribunal, Bikaner.

2. Heard learned Counsel for the petitioner at length.

3. Persued the Award impugned challenged in the present writ petition, whereby the Industrial Tribunal in its discretion substantially affirmed punishment awarded by the disciplinary authority relating to forfeiture of wages during the period of suspension with sleek modification with regard to withholding of two annual grade increments with cumulative effect to withholding of two annual grae increments without cumulative effect on the ground that withholding of increments provided under Clause (ii) of Order 36 of the Rajasthan State Road Transport Workers and Workshop Employees Standing Order, 1965 (hereinaftere referred to as to "the Standing Orders, 1965") does not include within its ambit withholding of annual grade increments with cumulative effect which is major punishment whereas it includes within its fold only withholding of annual grade increments without cumulative effect which is a minor punishment. The Industrial Tribunal has given cogent and convincing reasons in support of its aforesaid conclusion with which I am at one.

4. It is well to remember that prerogative writs of certiorari are not issued on mere technicalities or mere illegalities of formal nature having inconsequential effect on the judgment or order impugned provided the judicial conscience of the Court is satisfied that by impugned order material and substantial justice has been done between the parties. In the present case, I am satisfied that the Industrial Tribunal by its impugned judgment has done material and substantial justice between the parties, therefore, the present writ petition deserves to be dismissed at admission stage on this ground alone without further ceremony.

5. The learned Counsel for the petitioners Mr. Sangeet Lodha vehemently urged before me that the Industrial Tribunal has committed error in interpreting Clause (ii) of Order 36 of the Standing Order, 1965. According to him, the expression "withholding of increments or promotion" used under the aforesaid Standing Order includes within its fold both withholding of increments with cumulative effect as well as withholding of increments without cumulative effect and as such the interpretation given by the Industrial Tribunal is incorrect and requires reconsideration in the present writ petition. The argument of the learned Counsel for the petitioners is not acceptable to me for the reasons given hereinbelow.

6. I am of the view that as a matter of fact, the expressions used under Clause (ii) of Order 36 of the Standing Orders, 1965 are *pari materia* to Sub-rule (ii) of Rule 14 read with Rule 1 (aa) of the Rajasthan Civil Service (Classification, Control and Appeal) Rules, 1958 (for short "the Rules of 1958"), wherein, under Sub-rule (ii) of Rule 14 of the Rules of 1958, the expression "withholding of increments or promotion" is used which is treated to be a minor punishment whereas under Rule 1 (aa) of the said Rules, punishment of withholding of increments with cumulative effect for any period is declared to be major punishment.

7. In the present case, I have no hesitation in holding that the provisions postulated under Sub-rule (ii) of Rule 14 read with Rule 1 (aa) of the Rules of 1958 making distinction between withholding of increments with cumulative effect and withholding of increments without cumulative effect can be safely used as key to open the lock of ambiguity of Clause (ii) of Order 36 of the Standing Order, 1965. Accordingly, it is held that withholding of increments with cumulative effect and withholding of increments without cumulative effect is not the same thing. Thus, the Industrial Tribunal has committed no error in interpreting Clause (ii) of Order 36 of the Standing Orders, 1965 holding that it does not include within its fold withholding of increments with cumulative effect is correct and it is hereby affirmed.

8. Now law must be taken to be well settled that if there is ambiguity relating to a statutory provision having two conflicting interpretations and also leading to punitive consequence to the citizens then the interpretation in favour of citizens to be preferred. On this count also, the Industrial Tribunal has committed no error in interpreting Clause (ii) of Order 36 of the Standing Orders, 1965 in favour of respondent No. 1.

9. Alternatively, it is taken as a ground in the writ petition that even if punishment of withholding of increments with cumulative effect is not contemplated under Clause (ii) of Order 36 of the Standing Orders, 1965 the respondent can be punished with two annual grade increments with cumulative effect under Clause (vi) of Order 36 of the said standing Orders. Suffice it to say in this regard that although this point was taken before the Industrial Tribunal but was not rightly pressed, hence, there is no discussion on this point in the impugned Award. In abundant caution, it is held that field occupied by Clause (ii) and Clause (vi) of Order 36 of the Standing Orders, 1965 is not same. Both the clauses occupied different fields, therefore, this point was not rightly pressed before the Industrial Tribunal. There can be no presumption that Clause (vi) of Order 36 of the Standing Orders, 1965 are superfluous and occupy the same field which is occupied by Clause (ii) Order 36 of the said Standing Orders.

10. In view of what has been discussed above, the present writ petition lacks merit and it is hereby dismissed in limine.