

(1990) 10 RAJ CK 0002
In the Rajasthan High Court
Case No : Civil writ Petition No. 1801 of 1990

Rajasthan State Road Transport Corporation	APPELLANT
Vs	
Gauri Shanker and Another	RESPONDENT

Date of Decision : 17-10-1990

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 11A, 15, 7

Citation : (1990) 2 RLW 622 : (1990) 2 WLN 472

Hon'ble Judges : Milap Chand Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Milap Chandra, J.—This writ petition has been filed for quashin the order of the learned Labour Judge Udaipur dated September 26, 1986 by which he has reduced the punishment impost by the petitioner upon its employee Gauri Shanker. The facts of the case giving rise to this writ petition may be summarised thus.

2. The respondent Gauri Shanker was working in the checking branch of the petitioner. One Kailash Acharya submitted his papers to him and he passed them. On their further checking by higher authorities, they were found incorrect and submitted in order to deceive the Corporation. Gauri Shanker was served with a charge sheet and was suspended. After enquiry, he was found guilty of misconduct and was awarded punishment of withholding of three grade increments with cumulative effect and non-payment of the salary of the suspension period. At his instance, the State Government made a reference u/s 10, Industrial Disputes Act, 1947 (hereinafter to be called as "the Act") to the Labour Court, Udaipur. After necessary inquiry, the labour court reduced the said punishment to withholding of one grade increment only by its order under challenge in this writ petition".

3. It is contended by the learned Counsel for the petitioner that Section 11A of

the Act only deals with the reduction of punishment in appropriate cases, it is only applicable in cases of discharge and dismissal and despite it the learned Labour Court has reduced the said punishment imposed by the petitioner.

4. In reply, it has been contended by the learned Counsel for the respondent Gauri Shanker that the dispute in between the parties was regarding the quantum of punishment only and the labour court was bound to pass order regarding it as required Under Sections 10 and 15 of the Act.

5. There is no substance in the writ petition. Section 7 of the Act clearly provides that the Labour Courts have jurisdiction for the adjudication of the industrial disputes relation to any matter specified in Second Schedule. Item No. 1 of the Second Schedule relates to the propriety or legality of an order passed by the employer under the Standing Orders. Admittedly, the order imposing the said punishment was passed by the petitioner under its Standing Orders.

6. Reference made by the State Government to the Labour Court. Udaipur runs as under:

D;k IEHkkx izcU/kd] jktLFkku jkT;iFk ifjtu fuxe] vtesj }kjk muds Jfed Jh xkSjh"kadj ?ftudk izfruf/kRo lfpo] la;qDr deZpkjh QsMjs"ku jktLFkku jkT; iFk ifjogu fuxe HkhyokM+k }kjk fd;k x;k gS ? dks fuyEcu dky dk "ks"k osru tIr djus ,oa rhu okf"kZd osru o`f);ka LFkk;h izHkko ls jksds tkus dk n.M mfpr ,oa oS| gsS\\

7. Section 10(4) of the Act runs as under:

(4) Where in an order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this Section or in a subsequent the points of dispute for adjudication, the Labour Court or the Tribunal or the National Tribunal, as the Case may be, shall confine its adjudication to those points and matters incidental thereto.

8. Section 15 of the Act runs, as under:

15. Duties of Labour Courts Tribunals and National Tribunals.-Where an industrial dispute has been referred to a Labour Court, Tribunal or National Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, within the period specified in the order referring such industrial dispute or the further period extended under the second proviso to sub Section (2-A) of Section 10 submit its award to the appropriate" Government.

9. The above quoted reference and the provisions of law leave no doubt that the learned Labour Court, Udaipur had jurisdiction to decide about the propriety or reasonableness of the punishment imposed by the petitioner and to reduce it.

10. It is correct that Section 11A of the Act deals with the punishment of dismissal and discharge and with no other kinds of punishments. It was added in the Act by Industrial Disputes (Amendment) Act (Central Act No. 45 of 1971) with effect from December 15, 1971. Even prior to its insertion labour court and

the Tribunal had power to decide disputes regarding the quantum of punishment and the punishment imposed could be reduced by them if it was grossly out of proportion, suggesting victimisation or unfair labour practices. After the incorporation of Section 11A, punishment of dismissal or discharge can be reduced even in the absence of the aforesaid factors. The law regarding the reduction of other punishments has remained unchanged. Taking into consideration the facts and circumstances of the case, the learned Labour Court found the punishment awarded by the petitioner grossly out of proportion and accordingly reduced it. It cannot, therefore, be said that the learned labour Court had no jurisdiction to reduce the said punishment.

11. Consequently, the writ petition is dismissed with costs.