
(1994) 02 RAJ CK 0038

In the Rajasthan High Court

Case No : Civil Writ Petition No. 5893 of 1993

Rajasthan State Road Transport Corporation

APPELLANT

Vs

Ram Karan Chauhan and Another

RESPONDENT

Date of Decision : 28-02-1994

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 11A, 2(1), 2A

Citation : (1995) 2 LLJ 452

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : Manish Bhandari, for the Appellant; Sanjay Pareek, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Singhvi, J.—This petition is directed against the award dated October 23, 1991, passed by the Industrial Tribunal, Jaipur, in Case No. I.T. 207 of 1989.

2. On the basis of a departmental enquiry held against respondent No. 1, the competent authorities of the Rajasthan State Road Transport Corporation (for short "the Corporation"), passed orders dated June 6, 1981, February 24, 1978, and January 2, 1985, imposing penalties of stoppage of one grade increment with cumulative effect, two grade increments with cumulative effect and three grade increments with cumulative effect respectively. The Rajasthan State Roadways Anusuchit Jati/Janjati Karmachari Sangh raised a dispute in relation to the punishment imposed on respondent No. 1. Efforts made for settlement before the conciliation officer failed and after considering the failure report of the conciliation officer, the State Government issued notification dated November 8, 1989, for reference of the dispute to the Industrial Tribunal, Jaipur. The reference made by the State Government was in the following terms:

(The portion in vernacular is not printed here - Editor)

3. In its claim petition, the Karmachari Sangh claimed that respondent No. 1 was

its member. He had been appointed as a conductor in the service of the Corporation. He was confirmed as booking clerk in the year 1977. On the basis of a memorandum dated December 1, 1980, the employer passed an order dated June 6, 1981 imposing a penalty of stoppage of one grade increment with cumulative effect on the workman. Earlier to this, order dated February 24, 1978, was issued imposing a penalty of stoppage of two grade increments with cumulative effect in pursuance of an inquiry held on the basis of memorandum dated October 24, 1977. By order dated October 29, 1984, of the disciplinary authority the workman was removed from service. However, the appellate authority reduced the penalty of removal to that of stoppage of three increments with cumulative effect by order dated January 2, 1985. The Sangh claimed that inquiries had been held against the workman in contravention of the principles of natural justice, inasmuch as copies of the documents had not been made available to the workman, no evidence had been recorded and opportunity of defence was not given. It also claimed that the punishment imposed on the workman was highly excessive and unjustified. The petitioners contested the claim of the Sangh and alleged that the workman had been penalised on various occasions in respect of charges of carrying passengers without tickets. The petitioners pleaded that fair and proper inquiry had been held in all the three cases and punishment had been imposed on the workman having regard to the nature of misconduct committed by him.

4. After considering the rival claims, the Industrial Tribunal held that the domestic inquiries held in all the three cases were fair and proper. The Tribunal held that penalty of stoppage of one grade increment imposed on the petitioner by order dated June 6, 1991, was commensurate with the allegations of misconduct found proved against the petitioner. In respect of order dated February 24, 1978 the Tribunal held that inquiry had been held against the workman in accordance with the principles of natural justice. It further held that the charge of carrying ten passengers without tickets in vehicle No. 2553 which was plying on route No. 10 B.B.N. from Bari Choupad to Housing Board was established. On the question of punishment the Tribunal took notice of the fact that the workman had not collected fare from the passengers and the total amount of fare was Rs. 4. The Tribunal expressed the view that the punishment was highly excessive and unjustified because stoppage of grade increments with cumulative effect will perpetually affect the workman. It expressed the view that the ends of justice will be met if penalty of stoppage of two grade increments without cumulative effect is imposed on the workman. In respect of the order dated January 2, 1985, also the Tribunal accepted the findings of the inquiry officer that the charge levelled against the workman of carrying four passengers without ticket was correct. However, on the question of punishment, the Tribunal expressed the view that stoppage of three grade increments with cumulative effect was excessive. In doing so, the Tribunal took notice of the fact that total amount recovered from the passengers was Rs. 82 and the workman had not collected this amount and that there was no chance of misappropriation of

money by the workman. On the basis of these conclusions, the Tribunal upheld the penalty imposed by order dated June 6, 1981, but modified the penalties imposed by orders dated February 24, 1978, and January 2, 1985. It converted the penalties of stoppage of two grade increments with cumulative effect and three grade increments with cumulative effect into stoppage of increments without cumulative effect.

5. First argument of Shri Manish Bhandari, learned counsel for the petitioners, is that the Tribunal has committed an error of jurisdiction in invoking the provisions of Section 11A of the Industrial Disputes Act, 1947, because that section is attracted only in the cases of dismissal or discharge from service by way of punishment. Shri Bhandari argued that penalties of stoppage of grade increments with cumulative effect cannot be equated with penalties of dismissal or discharge from service as a measure of punishment. The second submission of Shri Bhandari is that if Section 11A is not applicable in cases of penalties other than dismissal or discharge from service, the Industrial Tribunal had no jurisdiction to interfere with the quantum of punishment awarded by the employer. He argued that the employer had absolute discretion on the question of quantum of punishments to be imposed on the workman in view of the findings of guilt recorded in the domestic enquiry and the Industrial Tribunal had no authority to substitute its own opinion in place of the one expressed by the employer. He lastly argued that punishment imposed on the workman in different enquiries were not shockingly disproportionate and, therefore, it was not open to the Tribunal to have reduced the punishment awarded by the employer. He placed reliance on the decision of the Supreme Court in *Indian Iron and Steel Co., Ltd. and Another Vs. Their Workmen*, and *The Workmen of Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. Vs. The Management and Others*, Shri Pareek, learned counsel for respondent No. 1, on the other hand, submitted that the provisions of Section 11A cannot be confined to the cases of dismissal or discharge by way of punishment and that the Industrial Tribunal has not acted illegally in invoking the principles enunciated by the Supreme Court in the context of Section 11A. He then submitted that even if Section 11A is not held to be applicable to the cases of penalties other than dismissal or discharge from service by way of punishment, the Industrial Tribunal has got wide jurisdiction to interfere with the penalty imposed by the employer. Shri Pareek submitted that the jurisdiction of the Industrial Tribunal/Labour Court to interfere with the quantum of punishment was available even before the insertion of Section 11A and, therefore, the impugned award cannot be characterised as without jurisdiction. He lastly argued that the impugned award does not suffer from error of law apparent on the face of the record and, therefore, this court will not issue a writ of certiorari to quash the award. Shri Pareek relied on an order dated March 10, 1993 passed in *Rajasthan State Road Transport Corpn. Vs. Labour Court and Others*, and eight connected writ petitions decided at the principal seat of this court.

6. The Industrial Disputes Act, 1947 is an Act to make provisions for the

investigation and settlement of industrial disputes and for certain other purposes. The preamble to the Industrial Disputes Act, 1947 reads thus:

"Whereas it is expedient to make provision for the investigation and settlement of industrial disputes and for certain other purposes, hereinafter appearing;

It is hereby enacted as follows:"

Section 2 of the 1947 Act contains various definitions.

7. Section 2(kkb) defines "Labour Court" as a Labour Court constituted under the section. Section 2(r) defines "Tribunal" to mean an Industrial Tribunal constituted u/s 7A and includes an Industrial Tribunal constituted before May 10, 1957, under the 1947 Act. The expression "unfair labour practice" has been defined in Section 2(ra) and it means, any of the practices specified in the Fifth Schedule. Section 7 contains provision for constitution of one or more Labour Courts. Section 7A provides for constitution of one or more Industrial Tribunals. Section 10 empowers the Government to make reference of disputes to the Boards, Courts or Tribunals. Section 11 speaks of the procedure and powers of conciliation officers, Boards, Courts and Tribunals. Section 11A confers power on Labour Courts, Tribunals and National Tribunals to give appropriate relief in cases of discharge or dismissal of workmen.

8. Schedule II refers to the matters which are within the jurisdiction of the Labour Court. Whereas Section 7A refers to those matters which are within the jurisdiction of the Industrial Tribunals, the Fifth Schedule enumerates unfair labour practice.

9. Since a very important question relating to scope and extent of the jurisdiction of the Labour Courts/Tribunals is involved, I deem it appropriate to quote Sections 7(1), 7A(I), Section 10(1), Section 11A as also Schedules II and III.

"7. Labour Courts. - (1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of the industrial disputes relating to any matter specified in the second schedule and for performing such other functions as may be assigned to them under this Act.

7-A. Tribunals. - (1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of the industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule (and for performing such other functions as may be assigned to them under this Act).

10. Reference of disputes to Boards, Courts or Tribunals. - (1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may, at any time, by order in writing,-

(a) refer the dispute to a Board for promoting a settlement thereof; or

(b) refer any matter appearing to be connected with or relevant to the dispute to

a court for inquiry; or

(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or

(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication:

Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred workmen, the appropriate Government may, if it so thinks fit, make the reference to a Labour Court under clause (c):

Provided further that where the dispute relates to a public utility service and a notice u/s 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced:

Provided also that where the dispute in relation to which the Central Government is the appropriate Government, it shall be competent for that Government to refer the dispute to a Labour Court or an Industrial Tribunal, as the case may be, constituted by the State Government.

11-A. Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen. - Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:

Provided that in any proceedings under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.

The Second Schedule - Matters within the jurisdiction of Labour Court-

1. The propriety or legality of an order passed by an employer under the standing orders;

2. The application and interpretation of standing orders;

3. Discharge or dismissal of workman including reinstatement of, or grant of relief to, workman wrongfully dismissed;
4. Withdrawal of any customary concession or privilege;
5. Illegality or otherwise of a strike or lockout; and
6. All matters other than those specified in the Third Schedule.

The Third Schedule.

1. Wages including the period and mode of payment;
2. Compensatory and other allowances;
3. Hours of work and rest intervals;
4. Leave with wages and holidays;
5. Bonus, profit sharing, provident fund and gratuity;
6. Shift working otherwise than in accordance with standing orders;
7. Classification by grades;
8. Rules of discipline;
9. Rationalisation;
10. Retrenchment of workmen and closure of establishment; and
11. Any other matter that may be prescribed."

10. An analysis of the above-quoted provisions shows that the appropriate Government has power to make reference of any industrial dispute, existing or apprehended. The subject-matter of which reference can be made to the Labour Court or the Industrial Tribunal have been specified in Schedules II and III respectively. Schedule II empowers the Labour Court to examine the propriety and legality of an order passed by an employer under the standing orders. Some other matters have been specified in this Schedule. In Item No. 6 of the Schedule all matters which are not enumerated in the Third Schedule are included by implication. Item No. 8 of the Third Schedule deals with rules of discipline. It is, therefore, clear that the Second and Third Schedules are comprehensive enough to cover all matters involving actions taken by the employer under the standing orders. Matters relating to wages, allowances, hours of work, leave, seniority, promotion, termination of service by way of punishment, retrenchment and all disciplinary matters fall within the jurisdiction of the Labour Court or Industrial Tribunal. It can, therefore, be said that by exercising its power u/s 10, the appropriate Government can make reference to the Labour Court/Industrial Tribunal in respect of matters specified in Second Schedule and Third Schedule. Once the appropriate Government makes reference, the concerned Labour Court or Industrial Tribunal gets full power to

make an adjudication of that industrial dispute. The very conferment of such wide powers on the appropriate Government to make any reference of industrial dispute existing or apprehended and corresponding power on the Labour Court/Industrial Tribunal to make adjudication of such industrial dispute is indicative of the legislative intendment, namely that all matters relating to service conditions of employees which have been enumerated in Second and Third Schedules can be made the subject-matter of adjudication of a reference of the industrial dispute made by the appropriate Government to a Labour Court or the Industrial Tribunal. The conferment of such wide powers on the appropriate Government and on the Labour Court/Industrial Tribunal by the Legislature is itself indicative of the fact that the Legislature intended to cover the entire field of service conditions relating to industrial employees by the provisions of the Industrial Disputes Act. There is little justification for curtailing this wider spectrum of the power of the Labour Court/Industrial Tribunal. It is also important to bear in mind that while an individual dispute in relation to dismissal/discharge, retrenchment or termination of service has been deemed to be an industrial dispute by virtue of Section 2A, an individual dispute concerning the service conditions of an employee can become an industrial dispute only when it is espoused by a union of the employees or of substantial number of workmen.

11. In *Jagdish Narain v. Rajasthan Patrika* (1994-II-LLJ-600), this court has made reference to several decisions of the Supreme Court including *Central Provinces Transport Service Ltd. v. Raghunath Gopal Patwardhan* 1957 1 LLJ 27 *Workmen of Dharampal Premchand (Saughandhi) Vs. Dharampal Premchand (Saughandhi)*, and *Workmen of Indian Express (P) Ltd. Vs. The Management*, held that an individual dispute can become an industrial dispute only when it is espoused by a union or substantial number of workmen and the only exception is that one contemplated by Section 2A of the Act.

12. From the above, it is clear that once an union of employees operating in the establishment or a substantial number of workmen espouse the case of an individual workman in relation to his service conditions, the dispute relating to such service conditions becomes an industrial dispute. Such dispute may relate to an order of punishment passed by the employer in accordance with the provisions of the standing orders or any other statutory provision governing relationship between the parties or even otherwise. This may not necessarily be a punishment of dismissal or removal from service. The employer has power to impose different types of major or minor penalties on an employee. A dispute relating to dismissal or removal from service or termination of service by way of punishment may become the subject matter of Industrial dispute at the instance of an individual employee but in respect of other punishment, it can become the subject-matter of industrial dispute only on espousal by union or substantial number of workmen. It is, therefore, clear that once the union or substantial number of workmen employed in the establishment takes up the cause of an employee in relation to an action of the employer resulting in imposition of penalty other than dismissal or removal from service and a reference is made by

the State Government, the Labour Court/Industrial Tribunal gets full power to make an adjudication on the legality, propriety and justness of the action of the employer. Logically, the Labour Court or the Industrial Tribunal can give appropriate relief to the workman once it comes to the conclusion that the punishment imposed is unjust, arbitrary or is an act of unfair labour practice.

13. In so far as Section 11A is concerned, a bare perusal of the language employed in this section makes it abundantly clear that the power conferred on the Labour Court/Industrial Tribunal to reconsider the findings of misconduct and to interfere with the quantum of punishment is confined to the cases of dismissal or discharge from service by way of punishment. This section does not deal with cases of termination of service simpliciter or other types of penalties imposed by the employer on the workman. The very opening words of the section, namely, "where industrial dispute relating to discharge or dismissal of a workman has been referred...." shows that this section is confined to a particular type of cases. Statement of Objects and Reasons contained in the bill which was moved before Parliament for enactment of Section 11A clearly shows that the Legislature intended to confer appellate power on the Labour Court/Industrial Tribunal in relation to the penalty of discharge or dismissal from service. While enacting Section 11A, Parliament had taken note of the recommendations made by the International Labour Organisation as well as the judgment of the Supreme Court in *Indian Iron and Steel Co. Ltd. v. Their Workmen* (supra).

14. It is thus clear that the argument of learned counsel for the petitioner that Section 11A does not apply to the cases other than those involving dismissal or discharge by way of punishment merits acceptance.

15. However, second submission of learned counsel that the Labour Court/Industrial Tribunal does not have power to deal with other cases of punishments or to examine the merits or demerits of other penalties imposed by the employer cannot be accepted in its wide sweep. Acceptance of the argument of learned counsel would amount to re-writing of the Second Schedule and Third Schedule appended to the Act of 1947. Item No. 1 of Schedule II and Item No. 8 of Schedule III clearly comprehend within themselves all matters in which orders are passed by the employer under the standing orders or the rules of discipline. This would obviously include imposition of punishment other than dismissal or removal from service and there is no justification for this Court to curtail the scope of item 1 of the Second Schedule or item 8 of the Third Schedule. In fact, a narrow and restricted interpretation of the various clauses of the Second Schedule and the Third Schedule will amount to undue encroachment on the power of the Legislature. Therefore, I am clearly of the opinion that the Labour Court/Industrial Tribunal has got full jurisdiction to examine the merits and demerits of the order of punishment passed by the employer under the standing orders or the rules of discipline where the penalty is other than dismissal or discharge from service.

16. Decision of the Supreme Court in *Workmen of Firestone Tyre and Rubber Co.*

of India Pvt. Ltd., (supra), on which much emphasis has been laid by Shri Bhandari, learned counsel for the petitioner, if read as a whole, does not lead to a conclusion that prior to the insertion of Section 11A, the Labour Court/Industrial Tribunal had no jurisdiction to deal with the quantum of punishment awarded by the employer. In para 29 of its decision the Supreme Court has enumerated the principles on the basis of the cases decided prior to insertion of Section 11A. Principle No. 1 enumerated in para 29 reads thus (at page 293):

"(1) The right to take disciplinary action and to decide upon the quantum of punishment are mainly managerial functions, but if a dispute is referred to a Tribunal, the latter has power to see if action of the employer is justified."

17. In fact, among the most celebrated cases on the powers of the Labour Court/Industrial Tribunal is that of Indian Iron and Steel Co. Ltd., (supra). The Supreme Court had indicated the guidelines for exercise of the power by the Labour Court/Industrial Tribunal in cases of dismissal and discharge from service. In that case, the Court had observed (at pp 269-270):

"Undoubtedly, the management of a concern has power to direct its own internal administration and discipline; but the power is not unlimited and when a dispute arises, Industrial Tribunals have been given the power to see whether the termination of service of a workman is justified and to give appropriate relief. In case of dismissal on misconduct, the Tribunal does not, however, act as a court of appeal and substitute its own judgment for that of the management. It will interfere (i) when there is want of good faith; (ii) when there is victimisation or unfair labour practice, (iii) when the management has been guilty of a basic error or violation of a principle of natural justice, and (iv) when on the materials the finding is completely baseless or perverse."

18. Observations made in some of the paragraphs that power to interfere with the quantum of punishment has been for the first time conferred on the Industrial Tribunal/Labour Court has to be read in the light of observations made in the other parts of the judgment and if so read, it becomes clear that by its judgment in Fire-stone Tyre and Rubber Co. of India (P) Ltd., (supra), the Supreme Court has only indicated that much wider power now vests with the Labour Court/Industrial Tribunal in relation to cases of dismissal or discharge from service by way of punishment. In fact, in some of the earlier judgments, the Supreme Court had indicated that the Tribunal will ordinarily not interfere with the action of the employer but their Lordships never laid down a principle of law that in any case, the Labour Court/Industrial Tribunal would interfere with the action of the employer.

19. In *The Punjab National Bank Ltd. Vs. Its Workmen, the Ritz Theatre (Pvt.) Ltd. v. Its Workman* 1962 11 LLJ 498 and *Hind Construction and Engineering Co. Ltd. Vs. Their Workmen*, the Supreme Court had clearly recognised the right of the Labour Court/Industrial Tribunal to interfere with the punishment where the employer's action was found to be defective or malafide or an act of unfair

labour practice. The court also held that if the punishment is found to be shockingly disproportionate, the inference of victimisation or unfair labour practice may legitimately be drawn by the Tribunal. It is, therefore, clear that even before insertion of Section 11A, the Tribunal had jurisdiction to interfere with the quantum of punishment even though such interference was on very limited grounds. What has been done by insertion of Section 11A is to empower the Labour Court/Industrial Tribunal to make a re- appraisal of the evidence produced during the course of domestic enquiry and to record independent conclusion on the allegations of misconduct levelled against the workman. Another feature of Section 11A is that in all cases of dismissal or discharge from service by way of punishment the Labour Court/Industrial Tribunal etc., are now required to consider whether the punishment awarded by the employer is justified or not and to award lesser punishment in an appropriate case.

20. The above discussion, however, does not lead to a negative conclusion that in cases other than those of dismissal or discharge from service by way of punishment the Labour Court/Industrial Tribunal etc., do not have any jurisdiction to examine the legality and propriety of the other punishment awarded to the workman. Acceptance of this proposition would mean that the Government will be robbed of its jurisdiction to make reference on the question of propriety and justness of the punishment awarded to a workman in cases other than those relating to punishment of dismissal or discharge from service even though a dispute is raised/espoused by a union or even the entire work force of the industry. This will also rob the Labour Court/Industrial Tribunal etc., of their jurisdiction to make an adjudication of the dispute referred to them in relation to matters specified in the Second Schedule and Third Schedule. These consequences can easily be avoided by giving due regard to the jurisdiction of the Government and the Tribunal to make reference and to make adjudication of such reference of the dispute relating to various service conditions concerning the workmen employed in the industry. In my considered opinion, the latter course deserves to be adopted by the courts and also in tune with the legislative intendment.

21. In *Rajasthan State Road Transport Corporation v. Labour Court*, (supra), decided on March 10, 1993, along with eight other writ petitions, a learned Single Bench of this court had dealt with this aspect of the case and held that power vests with the Labour Court/Industrial Tribunal to go into the question of propriety and legality of the order passed by the employer. The court observed; (PP 544-545):

"A close reading of Sections 7 and 10 along with Schedule II of the Act makes it very clear that u/s 10 of the Act, the court has been given power to go into the questions of propriety and legality of the order passed by the employer under the standing orders. Standing orders are statutory terms and conditions of service and if an employer does not conform to the provisions of the standing orders he commits an illegality and the order passed, which is illegal, is to be straightaway

set aside by the Tribunal. At the time of considering the legality and validity of the order, the adequacy of the penalty can also be gone into by the Tribunal and if it is found that the punishment imposed is disproportionate and is unnecessarily harsh, then the same can be reduced. The propriety and reasonableness of the punishment imposed by the employer can be gone into."

22. In my view, the above proposition reflects the correct position of law. That apart, once it is conceded that the Labour Court/Industrial Tribunal etc., have got jurisdiction to examine the legality and propriety of the action of the employer, fairness of the action of the employer can also be examined by the Labour Court/Industrial Tribunal, etc. Where an action of the employer is found to be wholly arbitrary and unfair or where the punishment is disproportionate or unduly harsh, it will be within the competence of the Labour Court/or Tribunal to deduce that the employer has resorted to unfair labour practice. Likewise, if the employer picks out an employee out of a group for the purpose of punishment while leaving out others, or where a patent discrimination is practised by the employer while imposing punishment on the workmen, the Labour Court/Industrial Tribunal, etc., will be fully justified in exercising their discretion to interfere with the quantum of punishment. The similar view has been expressed by the Division Bench of this Court in *Aditya Mills Ltd. Vs. Ram Dayal and Others*, and by a *Rajasthan State Road Transport Corporation Vs. The Judge, Industrial Tribunal Rajasthan and Others*,

23. Thus, the argument of learned counsel for the petitioner that the Labour Court/Industrial Tribunal does not have jurisdiction to interfere with the punishment awarded by the employer on the basis of a domestic enquiry deserves to be rejected and it is accordingly rejected.

24. Now, the question relating to legality of the impugned award merits consideration. A comprehensive reading of the award shows that the Tribunal has examined three orders of punishment passed against the petitioner. It has given detailed reasons for holding that the inquiries held against the petitioner were fair. It has independently examined the three punishment orders and has recorded separate conclusions for holding that the punishment of stoppage of one grade increment with cumulative effect imposed by order dated June 6, 1981, does not warrant interference but the two punishments imposed by orders dated February 24, 1978, and January 2, 1985, are excessive and, therefore, deserve to be modified. The Tribunal has taken note of the allegations of misconduct which constituted the foundation of the three inquiries. In respect of order dated February 24, 1978, the Tribunal has observed that the workman had not issued tickets to the passengers while the bus was plying from Badi Choupad to Housing Board Circle, but further opined that the total loss caused to the Corporation was of Rs. 4 and stoppage of two grade increments with cumulative effect was extremely harsh punishment because, that would affect him perpetually in his service career. Similarly, in respect of punishment order dated January 2, 1985, the Tribunal observed that the workman could not be charged

with allegation of misappropriation because he had not collected the amount from the passengers. Taking note of the total amount of fare which was Rs. 82 and which was recovered from the passengers by the Inspector, the Tribunal expressed the view that the punishment was wholly disproportionate and unreasonable. On the basis of this conclusion, it modified the penalty of stoppage of three grade increments with cumulative effect to that of stoppage of three grade increments without cumulative effect. Once I have recorded a conclusion that the Tribunal did have jurisdiction to examine the legality and propriety of the order of punishment, interference with the award passed by the Tribunal will be justified only if the court comes to the conclusion that the award passed by the Tribunal is perverse or is without jurisdiction. If this court was to simply differ with the approach adopted by the Tribunal there will be hardly any justification for holding that the award is perverse. Similarly, a mere possibility of this court forming a different opinion than the one formed by the Tribunal will not afford a ground of interference by the court. The principles laid down by the Supreme Court in *Syed Yakoob Vs. K.S. Radhakrishnan and Others*, have to be kept in mind while entertaining a writ petition against an award of the Tribunal. In that case, the Constitution Bench of the Supreme Court observed (headnote):

"The jurisdiction of High Court to issue a writ or certiorari is a supervisory jurisdiction and the court exercising it is not entitled to act as an appellate court. This limitation necessarily means that findings of fact reached by the inferior court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari.

A finding of fact recorded by the Tribunal cannot, however, be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding being within the exclusive jurisdiction of the Tribunal, the points cannot be agitated before a writ court."

25. A re-examination of the award in the light of the above referred provisions of the Supreme Court leaves no room for doubt that the learned Industrial Tribunal has not committed any perversity in passing the impugned award whereby it has modified the two punishments awarded to the workman. It is not possible to hold that the Tribunal has interfered with the quantum of punishment without application of mind. The Tribunal was conscious of the fact that no allegation of

misappropriation of public fund has been levelled against the workman and that there is no evidence on record to show that the workman had collected fare from the passengers and had not issued the tickets. It may have been a different thing if it were a case involving corruption or misappropriation of funds. In that type of cases the Tribunal may not have interfered with the quantum of punishment, but, in a case where the workman can at best be said to have neglected the performance of his duties, it was perfectly within the jurisdiction of the Tribunal to examine fairness, reasonableness, etc., of the punishment awarded to the workman and since after considering all the relevant factors the Tribunal has thought it proper to interfere with the punishment awarded to the workman, it is not possible to hold that the award suffers from an error of law warranting interference by this court.

26. For the reasons aforesaid, the writ petition is dismissed. Parties are left to bear their own costs.