
(1999) 08 AHC CK 0045
In the Allahabad High Court
Case No : C.M.W.P. No.13969 of 1990

Ram Babu Gupta

APPELLANT

Vs

U.P. State Road Transport Corporation and others

RESPONDENT

Date of Decision : 30-08-1999

Acts Referred:

Citation : (1999) 4 AWC 3272 : (1999) AWC 3272 : (1999) 3 UPLBEC 2175

Hon'ble Judges : V.M. Sahai, J

Bench : Single Bench

Advocate : Shashi Nandan and Rajiv Joshi, for the Appellant; Vivek Prasad Mathur and D.K.S. Rathor, for the Respondent

Judgement

V.M. Sahai, J.—The petitioner was a conductor in U. P. Road Transport Corporation. He was appointed in 1973. On 18.3.86 while the petitioner was conducting Bus No. UHI 106. the checking squad found that ten persons were travelling in it without ticket. A charge-sheet was issued to the petitioner on 23.4.86. It was alleged that the action of the petitioner caused loss to the corporation. It was also mentioned that the petitioner committed breach of the departmental rules in not recording the entry in waybill and permitting the passengers to sit in the bus without completing the formalities. In reply, the explanation of the petitioner was that ten students entered the bus and they refused to purchase tickets. When he made the tickets, they refused to pay. According to petitioner, this was regular problem on Alwar-Agra route. And when the superintendent of the checking staff made the penal tickets in the name of one of the students. they refused to pay. Consequently, the amount was charged from the petitioner. His version was supported by one of the witnesses examined by him before the Inquiry officer, in the inquiry, -the charge against the petitioner of embezzlement, corruption and dishonesty was not found proved. The inquiry officer, however, found that the petitioner was guilty of not following the departmental rules as he had not made entry in the waybill even after Issuing ticket. Further he was guilty of allowing the vehicle to move without

complying with the formalities and permitting the travellers to sit in the bus. The Regional Manager of the Corporation on the report of the inquiry officer issued show cause notice on 12.8.89 as to why the petitioner may not be removed from service. The petitioner submitted his reply. By order dated 28.2.90, the Regional Manager passed the impugned order and removed the petitioner from service. The appeal filed by the petitioner was also dismissed on 28.4.1990.

2. Heard Sri Shashi Nandan, learned counsel for the petitioner and Sri Vivek Prasad Mathur, learned counsel appearing for the respondents.

3. A perusal of the show cause notice and order of removal shows complete non-application of mind. The entire basis for issuing notice was the respondent No. 2 with inquiry officer that the charges against the petitioner were proved. It was completely erroneous, as the petitioner was found guilty of technical omissions only. The basis for issuing the show cause notice for removal was not existent. Once the petitioner had made the tickets before checking, the mere omission to enter it in the waybill could by no stretch result in removal of petitioner from service. The main charge of dishonesty and corruption was not proved. It was open to respondent No. 2 to disagree with findings of inquiry officer but then it was obligatory on him to discuss the evidence and record finding that the petitioner's action caused loss to the department. No such finding has been recorded. In fact, there is no finding recorded by him, which can be upheld. He has not discussed any evidence nor recorded any reason for coming to the conclusion that the petitioner was liable to be removed. It has been settled that the finding recorded by the disciplinary authority that he has considered the evidence and he was satisfied in the facts and circumstances of the case that delinquent was guilty was not sufficient in law. Since the order of respondent No. 2 is liable to be quashed, the order of the appellate authority automatically falls.

4. The writ petition succeeds and is allowed. The removal order dated 28.2. 1990 passed by respondent No. 2 Annexure-9 to the writ petition and the appellate order dated 28.4.1990 passed by respondent No. 1 Annexure-12 to the writ petition are quashed. The respondents are directed to reinstate the petitioner in service with all consequential benefits and shall pay his entire arrears of salary within two months from the date a certified copy of this order is produced before them. However, the respondents shall be at liberty to issue a fresh show cause notice to the petitioner limited to technical breach of rules.

5. There shall be no order as to costs.