

(2011) 03 AHC CK 0098
In the Allahabad High Court
Case No : Special Appeal No. 1821 of 2008

Ram Singh

APPELLANT

Vs

Deputy Genral Manager and Another

RESPONDENT

Date of Decision : 31-03-2011

Acts Referred:

Citation : (2011) 03 AHC CK 0098

Hon'ble Judges : Sunil Ambwani, J;Kashi Nath Pandey, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. We have heard Shri V. Sahai, learned Counsel for the Petitioner-Appellant. Shri Samir Sharma appears for U.P. State Road Transport Corporation.

3. The Petitioner was serving as Conductor in UP State Road Transport Corporation. On 2.2.1990, when he was on duty on a Bus traveling from Tanakpur-Agra road, an inspecting party stopped the Bus at about 6 kms from Shoro, on way to Etah and found that 17 passengers had boarded from Shoro; the Petitioner had issued tickets to 06 passengers. He had taken money but had not issued tickets to remaining 11 passengers. He had also not issued the receipt for goods weighing 300 kgs from Ushavani to Etah.

3. The inspecting party submitted a report on which a charge sheet was issued to the Petitioner. The Petitioner gave his reply but did not participate in the departmental enquiry. The enquiry officer found that the Petitioner had taken money from 11 passengers but had not issued tickets to them. He had also not issued receipt for carrying good weighing 300 Kgs. The inspecting party issued tickets to the remaining 11 passengers after charging penalty, which was allegedly paid by the Petitioner.

4. The Petitioner was given a show cause notice after the enquiry as to why he should not be dismissed from service for having committing misconduct for non-issuing tickets to 16 passengers after taking the money and for not issuing goods

receipt. The show cause notice was not served upon the Petitioner on which it was published in the newspapers. The Disciplinary Authority, by his order dated 24.9.1990, found that the Petitioner is guilty of misconduct, and passed an order dismissing him from service. The Petitioner's departmental appeal was considered and dismissed on 15.6.1991 by the Deputy General Manager, West Zone, Meerut confirming the findings.

5. Learned Single Judge observed in his judgment that the writ petition was dismissed in default vide order dated 2.9.2002. A restoration application was filed on 28.7.2004. Several opportunities were given to the counsel for the Petitioner and the matter was adjourned on four occasions to show the circular that the roadways bus could not be checked within 8 Kms from the Bus Station. Learned Counsel for the Petitioner could not file the circular. Learned Single Judge thereafter observed that the Petitioner did not participate in the enquiry and did not give reply to the show cause notice. He did not find any good ground to interfere with the impugned orders and observed in the end that inspite of several opportunities the counsel for the Petitioner did not show the circular or order that the Bus cannot be checked within 8 Kms from the Bus Station.

6. Shri V. Sahai, learned Counsel for the Petitioner states that inspite of best efforts the Appellant could not find the circular. He has somehow managed to get an extract of the circular letter of the year 1968 in which it is provided in para-9 (a) that in respect of mail and express long distance bus services, tickets should be issued, in any case, before covering a distance of up to five miles from the starting station to avoid delay. He submits that 5 miles would mean 8 Kms. In the present case up to 8 Kms from Shoro the Petitioner could have issued the tickets to the passengers. He submits that the inspecting party did not have authority to stop the bus and to submit a report against the Petitioner for not issuing tickets when the Bus was intercepted at a distance of less than 8 Kms from Shoro on way to Etah.

7. The Petitioner was given several opportunities to produce the circular or the order of the Corporation providing that no inspection can be made within 8 Kms and tickets can be issued up to 8 Kms. The issuance of tickets involves the charging of money and issuance of the receipt of the tickets. In the present case the departmental authorities have recorded findings that the Petitioner had actually charged money from the passengers and had not issued tickets to them up to the time when the Bus was stopped.

8. In the absence of date and the details of the circular or order, which the Petitioner did not produce either in the departmental enquiry or before learned Single Judge, we are unable to appreciate the submission that the bus could not be stopped by the checking party up to 8 Kms and that the Petitioner could have issued tickets up to 8 Kms even if he had charged the money prior to covering the distance.

9. We do not find that learned Single Judge has committed any error of law in

dismissing the writ petition. The Special Appeal is dismissed.