

(1996) 04 RAJ CK 0006
In the Rajasthan High Court
Case No : Civil Writ Petition No. 988 of 1984

Ram Swaroop

APPELLANT

Vs

Rajasthan State Road Transport Corporation etc.

RESPONDENT

Date of Decision : 15-04-1996

Acts Referred:

Citation : (1996) 2 RLW 390 : (1996) 3 WLC 346 : (1996) 1 WLN 397

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—The petitioner workman has challenged in this petition the impugned award dated June 14, 1983 (Annex. 1) passed by the Labour Court and the order of removal dated March 27, 1979 (Annex. 2).

2. The learned counsel for the petitioner submitted that the Labour Court failed to appreciate the fact that the domestic inquiry was not properly held against the petitioner. It may be stated that how the domestic inquiry was not properly conducted, has not been made clear. This grievance was not made even before the Labour Court on behalf of the petitioner workman. The contention before the Labour Court was that the allegations made against the petitioner were totally baseless and on such allegations the petitioner was punished.

3. The learned counsel then contended that the impugned order of the disciplinary authority at Annexure-2 as well as the order passed in departmental appeal and the award of the Labour Court are non-speaking orders and, therefore, they are required to be set aside. It is true that the award passed by the Labour Court runs only in four typed pages but it cannot be said that it is a non-speaking order. The award is brief but precise one. It was dealt with each and every submission canvassed at the time of hearing of the matter. The impugned order of removal at Annexure- 2 passed by the disciplinary authority also cannot be said to be a non-speaking order. Going through the order, it

clearly appeals that the disciplinary authority concurred with the report of the Inquiry Officer and considering the entire facts and circumstances of the case, the disciplinary authority has thought it fit to pass an order of removal against the petitioner. The appellate authority is not required to give detailed reasons while deciding the appeal. The charges which are found to be proved against the petitioner are so serious that no other order than the order of removal can be passed against the petitioner.

4. The learned counsel for the petitioner then submitted that several contentions raised before the Labour Court were not dealt with and, therefore, the petitioner filed a review petition before the Labour Court, which was rejected by the Labour Court without giving an opportunity of hearing to the petitioner and, therefore, the matter be remanded to the Labour Court. It is true that a review petition was filed before the Labour Court contending that certain submissions canvassed before the Labour Court were not dealt with in the order but it may be stated that at the time of hearing of that review petition no one remained present before the Labour Court, therefore, the Labour Court had no option but to reject that petition. The said petition was dismissed also on the merits. It appears that for the sake of filing an application, the review petition was filed but thereafter the learned counsel for the petitioner before the Labour Court has chosen not to remain present before the Labour Court for the reasons best known to him. A most important thing is to be noted here that the said order passed by the Labour Court has not at all been challenged in this petition by the petitioner. Therefore, now it is not open to the petitioner to contend before this Court that several submissions raised before the Labour Court were not dealt with by the Labour Court in its award.

5. It was submitted that the penalty of removal was excessive and disproportionate and the Labour Court ought to have; modified the same by passing an order of stoppage of increment with or without future effect and without awarding any back wages, the petitioner ought, to have been reinstated in service as reformatory approach is required by the authority in such cases. In support, of this contention, reliance is placed on the Division Bench judgment of this Court reported in Rajasthan State Road Transport Corporation and Others Vs. Shri Ram Yadav, At this stage, it would be proper to state a few of the facts of this case which namely are, that the petitioner was initially appointed as Trainee Traffic Apprentice on 19.4.76 on probation. On March 21, 1978 when his vehicle was checked, it was found that 2 1/2 passengers were travelling in his bus without ticket. In another incident of March 31, 1978, it was found that out of seven passengers, he recovered money from four passengers and three were travelling without tickets. An inquiry was made in these two cases and in the inquiry both the cases were found proved against the petitioner workman and, therefore, the petitioner was removed from service by order dated March 27, 1979. I am of the view that a person involving in such a serious charge of mis-appropriation and criminal breach of trust, cannot be continued in service. It may also be noticed that the petitioner was on probation and he committed two mis- conducts of

similar nature within a period of two months. From the appointment order, it is clear that the services of the petitioner could have been terminated even without giving notice. It is not that for these two mis-conduct only the petitioner's services were terminated. In the past, the petitioner committed similar mis-conducts on June 10, 1976, June 17, 1976 July 28, 1976 and August 4, 1976. For that, the petitioner was removed from service but in an appeal, he was reinstated" in service. Thus, it cannot be said that there was no application of mind while passing the impugned order of removal at Annexure-2 by the Disciplinary Authority. How many opportunities can be given to a person ? When he was already given an opportunity to Improve himself but it seems that he became a habitual person indulging in the same type of mis- conduct and, therefore, it is not desirable that such person can be taken back in service by passing any order other than the order of removal. This will not only encourage him but other similarly situated person too to commit such mis-conduct. In this context, if we read the judgment delivered by this Court (supra) then in my humble opinion, no view other than the view taken by the Labour Court is possible to be taken in this writ petition. In case of *State Bank of India and Ors. v. Samarendra Kishore Endow and Anr.* 1994 1 SLR 53 the apex Court held that the imposition of appropriate punishment is within the discretion and judgment of the disciplinary authority and it may be open to the appellate authority to interfere with it but not to the High Court or to the administrative tribunal. As stated earlier, in the past, the appellate authority did interfere with the extreme penalty of removal but when the petitioner continued to indulge himself in similar mis-conduct then the appellate authority refused to interfere with the same and when the appellate authority refused to interfere with the penalty of removal then it is not open to this Court to interfere with the punishment.

6. In view of the above discussion, this petition fails and is dismissed with no order as to costs.

7. Before parting with this judgment, I may point out that on stay petition filed along with this writ petition, this Court passed an order on 11.9.84 and the respondent No. 1 was directed to pay to the petitioner half of the salary, which was drawn by him at the time the impugned order dated March 27, 1979. It was passed during the pendency of this writ petition and the said ad interim order was confirmed only on August 12, 1993. Under the order of the Court, the petitioner has continued to draw 50% of salary. It may be stated that the impugned order of removal passed by the disciplinary authority and the award passed by the Labour Court have not been stayed but the respondent No. 1 was directed to pay 50% salary to the petitioner. Now, as the writ petition of the petitioner fails and is dismissed, therefore, the petitioner has to refund that amount of 50% of salary which he has drawn till today to the respondent No. 1 within eight weeks from today. The stay petition is also dismissed with the main petition.