
(2000) 01 PAT CK 0028
In the Patna High Court
Case No : C.W.J.C. 4845 of 1997

Ramendra Nath Shome

APPELLANT

Vs

Bihar State Road Transport Corporation and others

RESPONDENT

Date of Decision : 24-01-2000

Acts Referred:

Citation : (2000) 1 PLJR 1053

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Advocate : Ram Janam Ojha and Mukesh Kumar No. II, for the Appellant; T.N. Jha for the Corporation, for the Respondent

Final Decision : Dismissed

Judgement

Aftab Alam, J.—The petitioner was a driver in the Bihar State Road Transport Corporation. He was subjected to a disciplinary proceeding on certain charges. According to the charges, on 25.1.1992 the petitioner was the driver of Bus No. 5062 being Deluxe Service from Sitamarhi to Patna. The bus was brought to Sitamarhi depot at the scheduled time but after some time when no passengers were booked, the petitioner insisted that the challan showing nill passengers be given to him. On his persistent demand the challan was handed over to him showing nill booking for the service. Even after receipt of the challan the petitioner did not start, in disregard of the rules, and waited till the arrival of the train. After the arrival of the train a number of passengers boarded the bus and in that view the time keeper asked the petitioner to return back the challan so that the passengers boarding the bus may be booked at the depot counter. The petitioner, however, refused to hand over the challan or to get the passengers booked at the depot counter and started the bus stating that he will get tickets issued for the passengers at the Dumra Check post. He also mis-behaved with the time keeper and abused and threatened him. It was stated that the petitioner's action in refusing to get the passengers boarding the bus booked at the depot counter and starting the bus without tickets being issued to them was

an act of gross misconduct and was also intended to cause loss of revenue to the Corporation. On the complaint made by the time keeper, Sitamarhi, Bus Depot, he was given a charge sheet dated 11.3.1992. On the basis of the charge sheet a departmental proceeding was initiated against the petitioner. He did not appear before the enquiry officer despite proper service of notices and in that circumstance the enquiry officer proceeded to hold the enquiry ex parte. In the enquiry witnesses were examined and finally it was held and found that the charges were duly established against the petitioner. On the basis of the enquiry report he was dismissed from service by order, dated 30.7.1996 passed by the Divisional Manager, Phulwari Depot. The order of dismissal was also confirmed by the appellate authority by order dated 28.1.1997 passed in the appeal preferred by the petitioner against the order of his dismissal.

2. Mr. Ram Janam Ojha, learned Senior counsel appearing for the petitioner submitted that though the charges were found to have been proved against the petitioner, the enquiry officer had recommended that the petitioner be taken away from the Deluxe service by way of punishment but the disciplinary authority imposed the ultimate punishment of dismissal which was quite excessive in the facts and circumstances of the case. I am unable to accept the submission. The enquiry officer holding the departmental enquiry was required only to see whether or not the charges were proved against the petitioner and it was not for him to make any recommendation on the question of punishment. At any rate the recommendation made by the enquiry officer was not binding upon the disciplinary authority and it was open to him to take a decision concerning the appropriate punishment having regard to the nature of the misconduct.

3. Mr. Ojha next submitted that no copy of the enquiry report was given to the petitioner and the omission to furnish a copy of the enquiry report vitiated the order of dismissal passed against the petitioner. I am unable to accept this submission either. Although it is true that no copy of the enquiry report was given to the petitioner before the disciplinary authority passed the order of dismissal against him but a copy of the enquiry report was supplied to the petitioner shortly thereafter and it was on that basis that he preferred his appeal before the appellate authority. Counsel for the petitioner also failed to show what prejudice was caused to the petitioner by the failure to supply a copy of the enquiry report before passing the dismissal order by the disciplinary authority. On hearing Mr. Ram Janam Ojha, learned senior counsel for the petitioner and the learned counsel appearing for the Corporation, I do not find any infirmity in the departmental proceeding held against the petitioner and the order of dismissal passed against him. I see no reason to interfere in this matter. This writ petition is accordingly dismissed.