

(2011) 09 RAJ CK 0048
In the Rajasthan High Court
Case No : Civil Writ Petition No. 10947 of 2009

Regional Manager, RSRTC, Kota

APPELLANT

Vs

Bhagwan Singh and Others

RESPONDENT

Date of Decision : 24-09-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 11A

Citation : (2012) 133 FLR 522 : (2012) 3 RLW 1974

Hon'ble Judges : M.N. Bhandari, J

Bench : Single Bench

Advocate : Om Prakash Sheoran, for the Appellant; Mahendra Shah, for the Respondent

Final Decision : Allowed

Judgement

M.N. Bhandari, J.—By this writ petition, a challenge has been made to the award dated 9.4.2009 at Annexure-3 passed by the Labour Court, Kota, wherein interference has been made in the quantum of punishment. Learned Counsel for petitioner submits that even on finding charge as proved, punishment order of stoppage of two grade increments with cumulative effect has been reduced to stoppage of two grade increments without cumulative effect. The allegation against the respondents-employees was for carrying passengers without tickets and the aforesaid charge was held proved. In the cases where punishment is other than the punishment of discharge or dismissal, the Labour Court is not competent to interfere in the quantum of punishment. In the light of the aforesaid, impugned order deserves to be set aside. Learned Counsel for the respondents though supported the impugned award but he is fair enough to state that section 11A of the Industrial Disputes Act 1947 (hereinafter to be referred as "the Act of 1947") applies to the punishment of discharge or dismissal of the workman.

2. I have considered the submission made by learned Counsel for the parties and perused the impugned award.

3. The only issue for my consideration is as to whether the Labour Court can interfere in the quantum of punishment when it is not of discharge or dismissal. The interference in the quantum of punishment is permissible in view of the provisions of section 11A of the Act of 1947 in the case of discharge or dismissal. However, the interference in the quantum of punishment has been made even though it is not a case of discharge or dismissal. The respondent employee was punished with stoppage of two grade increments with cumulative-effect and in the light of the aforesaid, finding charge to be proved, the Labour Court had no authority to interfere in the quantum of punishment. For ready reference section 11A of the Act of 1947 is quoted hereunder;

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 proceeding 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.

4. Perusal of the provision quoted above shows that in the case of discharge or dismissal, the Court is having power even to award lesser punishment in lieu of discharge or dismissal. Similar provision does not exist in regard to other punishment. From the aforesaid, it becomes clear that legislature has not made similar provision for interference of the Labour Court/Tribunal in the quantum of punishment. Something omitted cannot be assumed. This is more so when specific provision exists for interference in the quantum of punishment in the case of punishment of discharge or dismissal. If the object of the Legislature would have been to allow interference in the punishment other than the punishment of discharge or dismissal, the provision to that effect could have been enacted. In the aforesaid background, the Court below was having no power to exercise jurisdiction beyond the powers given to it.

5. Learned Labour Court exceeded the jurisdiction provided under the Act of 1947. Accordingly, the impugned award cannot be allowed to stand, as it is beyond competence of the Labour Court to interfere in the quantum of punishment of the nature involved herein. Hence, the award dated 9.4.2009 (Annex-3) is set aside. The writ petition is accordingly allowed with no order as to costs.