
(2000) 07 RAJ CK 0062

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3787 of 1998

R.S.R.T.C. and Others

APPELLANT

Vs

Shiv Narain and Others

RESPONDENT

Date of Decision : 24-07-2000

Acts Referred:

Constitution of India, 1950 — Article 227
Industrial Disputes Act, 1947 — Section 11

Citation : (2001) 88 FLR 220 : (2002) 4 LLJ 683 : (2001) 1 RLW 702 : (2000) 4 WLC 445 : (2001) 1 WLN 508

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

Bench : Single Bench

Advocate : Sangeet Lodha, for the Appellant; Vijay Mehta, for the Respondent

Final Decision : Dismissed

Judgement

Shethna, J.—The respondent workman was working with the petitioner corporation since 1977 as driver. On the charge of remaining absent from duty on 7.2.83 and 17.3.83 he was punished with stoppage of three increments with cumulative effect. This was challenged before the Labour Court in reference by the respondent workman. The Labour Court found that for remaining absent from duty without prior sanction is a serious mis-conduct. Therefore, it was of the opinion that some punishment has to be imposed against the workman so that in future he may not indulge in this type of mis-conduct, therefore, for causing pecuniary loss to the corporation the Labour Court ordered the workman to pay Rs. 4100/- to the corporation in place of penalty of stoppage of three increment with cumulative effect and accordingly the punishment was modified. This part of the award has been accepted by the workman, but challenged by the petitioner corporation by way of this writ petition.

(2) Learned counsel Shri Lodha for the petitioner corporation submitted that almost in identical case just two days before this Court took serious view of the matter regarding gross indiscipline prevailing amongst the drivers of the

corporation and set aside the award passed by the Labour Court interfering with the punishment awarded by the corporation against the workman for remaining absent from duty.

(3). It may be stated that each case has to be decided on facts of that case. It is true that I have not interfered with the order of punishment in a case where there was a gross indiscipline and mis-conduct committed by the workman who refused to attend the duty, but that was not the only thing. In that case, he was found to be heavily drunk and though he was warned he did not listen to the authorities. He was also driving the bus in drunken condition and brought the bus late at the bus stand and when the officer came at the site he left the bus without permission and because of that two trips were cancelled. Whereas, in this case, from the award passed by the Labour Court it is clear that respondent workman was in service since 1977 and for all these years there was not a single complaint against him of similar nature. It may also be stated that for remaining absent from duty in this case the respondent workman has produced a medical certificate also. Considering all these aspects of the case and the fact that this was his first mis-conduct, if the Labour Court was of the opinion that the punishment of stoppage of three increments with cumulative effect was highly disproportionate to the mis-conduct committed by the respondent workman and, therefore, modified the same by directing the respondent workman to pay Rs. 4100/- to the petitioner corporation then in my opinion this Court should not interfere with such award in its supervisory jurisdiction under Article 227 of the Constitution of India.

(4). It must be stated that instead of imposing such a major penalty of stoppage of three increments with cumulative effect the corporation should have started with some lesser punishment because reformatory steps are very much required while passing the punishment order.

(5). Before parting, it must be stated that Shri Lodha for the petitioner corporation has relied upon a Division Bench Judgment of this Court in case of Rajasthan State Road Transport Corporation vs. Judge, Industrial Tribunal, Bikaner and others (1), and submitted that Labour Court ought not to have interfered with punishment order u/s 11A of the Industrial Disputes Act because it does not sit in appeal over the punishment order passed by the corporation. He submitted that punishment awarded by the employer to the workman can be interfered only in a case for want of good faith, victimization, unfair labour practice, violation of principle of natural justice or perversity of finding guilt. There is no quarrel with the principles laid down by the Division Bench in the aforesaid case. However, in that very judgment, the Hon'ble Judges of Division Bench have clearly stated that recording of cogent reasons are necessary for interference by the Labour Court. At the cost of repetition, I may state that the Labour Court while modifying the order of punishment has recorded cogent reasons. Once it is found that punishment imposed against workman for the mis-conduct is disproportionate then there is nothing wrong on the part of the Labour

Court interfering with such punishment. It may also be stated that while modifying the punishment order the Labour Court has taken equal care in observing that by punishing the respondent workman to pay Rs. 4100/- to the petitioner corporation, the respondent workman is discouraged in future from remaining absent from duty without any valid reasons.

(6). In view of the above discussion, I do not see any reason to interfere with the impugned award passed by the Labour Court. Accordingly, this petition fails and is hereby dismissed.