
(2001) 03 RAJ CK 0071
In the Rajasthan High Court
Case No : Civil Writ Petition No. 794 of 1998

R.S.R.T.C.

APPELLANT

Vs

Shri Ramji Lal

RESPONDENT

Date of Decision : 13-03-2001

Acts Referred:

Citation : (2001) 90 FLR 1158 : (2001) 2 RLW 1208 : (2001) 2 WLC 675

Hon'ble Judges : Gyan Sudha Mishra, J

Bench : Single Bench

Advocate : Manish Bhandari, for the Appellant; M.K. Shan, for the Respondent

Judgement

Misra, J.

(1) The petitioner-Rajasthan State Road Transport Corporation has challenged the award of the Labour Court dated 21.3.1997 in which the Labour Court has been pleased to hold that the respondent-workman although had carried certain passengers in the vehicle, the same was done only at the time of "test-drive" of the vehicle and at the most that was an irregularity on his part by which he did not cause any loss to the petitioner-Corporation. Moreover there is no evidence that any money was charged from the passengers.

(2). In view of this finding, the learned Judge of the Labour Court held that the charge has been proved only partially in the sense that although an irregularity was committed by the respondent by carrying passengers at the lime of test-drive of the vehicle, there was no illegality as money was not charged from them. Therefore, the learned Judge of the Labour Court ordered for reinstatement of the respondent-workman with full back wages. However, a penalty was also imposed on the respondent-workman for stoppage of 5 grade increments with cumulative effect on account of the irregularity committed by him by carrying passengers at the time of test-drive.

(3). The writ petition in so far as the challenge to reinstatement of the respondent workman is concerned, the same has no merit since the charge

against him although has been held substantially proved, it is only partially found proved in so far as irregularity is concerned for which punishment has already been imposed upon him as stated hereinbefore. Hence, the writ petition in so far as challenge to reinstatement of the respondent-workman is concerned, it stands dismissed.

(4). The next question however still arises as to whether the respondent-workman could at all have been awarded full back wages for the period during which he was out of service. Mr. Bhandari relying upon the decision delivered in the matter of Rajasthan State Road Transport Corporation vs. Bhagya Mal & others (1), submitted that in this case the Tribunal while reducing the punishment and reinstating the workman, had denied the back wages to him but the High Court interfered with the order denying the back wages and while affirming the punishment directed that the respondent-workman would be entitled to the back wages. This order of the High Court was found to be self-contradictory since the learned Judges of the Apex Court held that when the High Court had found that the respondent employee deserved punishment on account of his misconduct, the High Court could not have rewarded the employee by granting him the back wages particularly when the Tribunal had converted the order of dismissal into stoppage of two grade increments with cumulative effect. The Supreme Court therefore, had set aside the order of the High Court in this case whereby the respondent-employee had been given the benefit of back wages by the High Court. Mr. Bhandari drawing an analogy submitted that a similar situation is existing in this case also where the Tribunal although found the respondent-workman guilty of irregularity and also punished him by stoppage of 5 grade increments with cumulative effect, it could not have further ordered for grant of full back wages in view of the ratio of the decision referred to hereinbefore.

(5). Mr. Mahendra Shah on behalf of the respondent-workman however has countered it by submitting that it lies within the discretion of the Tribunal as to what relief could have been granted to the respondent-workman and considering the nature of offence, the punishment of stoppage of 5 grade increments with cumulative effect has meet the ends of justice and the petitioner should not be denied full back wages; at the most 50% of the back wages can be reduced.

(6). But the aforesaid submission again appears to be contradictory for once the workman was found partially guilty of the charge and order of reinstatement was also passed in favour of the respondent-workman, rewarding the employee by granting him full back wages particularly when reward of reinstatement was also granted, is difficult to appreciate.

(7). I, thus deem it appropriate to modify the award of the Labour Court by upholding the award only in so far as his reinstatement is concerned by setting aside the order of grant of back wages which had been passed in favour of the respondent-workman.

(8). This writ petition thus stands partly allowed without costs.