

(2004) 04 AHC CK 0201

In the Allahabad High Court

Case No : Civil Miscellaneous Application No. 222928 of 2003 in Civil
Miscellaneous Writ Petition No. 11792 of 1985

Satendra Kumar Srivastava

APPELLANT

Vs

Presiding Officer, Labour Court and Assistant Regional
Manager, U.P. State Road Transport Corporation

RESPONDENT

Date of Decision : 16-04-2004

Acts Referred:

Industrial Disputes Act, 1947 — Section 11A

Citation : (2005) 105 FLR 950

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : Rajesh Ji Verma, for the Appellant; Sameer Sharma and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard learned counsel for the parties and perused the record.

2. Writ Petition No. 13893 of 1985 was filed by the Department, i.e., U.P. State Road Transport Corporation challenging the validity and correctness of the award dated 31.1.1985. The petitioner filed this cross writ petition, i.e., Writ Petition No. 11792 of 1985 challenging the same award on the ground that he could not be treated differently than Sri Viranji Lal, Driver whose offence was more serious. The Court while dictating judgment inadvertently overlooked the relief sought in the writ petition filed by the workman for grant of wages from the date; of suspension to the date of order passed by the Labour Court. It is submitted that the judgment in Writ Petition No. 13893 of 1985 was wrongly placed on record of this Writ Petition No. 11792 of 1985 as the, judgment; governed the facts of Writ Petition No. 13893 of 1985 and as such there is no order on merits of Writ Petition No. 11792 of 1985 filed by the petitioner claiming wages from the date of his suspension to the date of the Labour Court award. By the judgment dated 14.10.2003 passed in the present Writ Petition No. 11792 of

1985 the writ petition was dismissed and it was provided that the Corporation would pay the back wages of the petitioner from the date of the award till he had worked, if he had not already been paid the same, with interest at the rate of 10% per annum. The Court had also dismissed the Writ Petition No. 13893 of 1985 filed by the Corporation against the award finding no illegality or infirmity in the award. The only question which was before the Court in the present Writ Petition No. 11792 of 1985 filed by the workman was whether he should be granted the relief of back wages from the date of his suspension to the date of the Labour Court award. The prayer made in the present Writ Petition No. 11792 of 1985 is as under: -

"For the reasons given above and facts disclosed (in) the accompanying affidavit it is respectfully prayed that this Hon'ble Court may be pleased to issue a writ of certiorari quashing the order Annexure II and V and issue such other writ direction or order as this Hon'ble Court may deem fit and proper."

3. As is clear from the above quoted prayer, it is for the issuance of a writ of certiorari quashing the orders contained in Annexures 2 and 5 to the Writ Petition and such other writ direction or order, as this Court deems fit and proper.

4. Annexure 2 is the order of punishment to the following effect: -

^tkap ,oa rF;ksa ds vk/kkj ij ifjpkud ds ?ij yxk, x, vkjksi iwjh rjg iw.kZ:is.k ls fl) gksrs gSaa A ifjpkud Hkz"V vkpj.k viuk dj fuxe gkfu igqWpkus fdjk;k gM+ius] vkSj fuxe ,oa vk/kkj lafgrk ds fu;eksa dk mYya?ku djus] fujh{k.k ladsr cl dks u :dokuk fcuk fVdV ;k=h ys tkus ds fy, iw.kZ:is.k ls mRrjnk;h gS A vr% ifjpkud Jh IR;sUnz dqekj okLro dks Isok ls i`Fkd ?fjewo? fd;k tkrk gS budks fuyacu vof/k dk thou fuokZg HkRrs vkfn dks dqN Hkh izkIr dj pqds gSaa ds vykok dqN Hkh ns; ugha gksxk A ;g vkns"k izlkj.k frfFk ds izHkko esa vkosaxs A pkyd ds vkns"k igys gh fudkys tk pqds gSa A

5. Annexure 5 is the award, in paragraphs 8 to 9 of which is the finding recorded by the Labour Court to the following effect: -

^^Jfed izfrfuf/k us esllZ Xyslks yscsjsV?t ?b-? fy- cuke fn izslkbZfMax vkfQlj] yscj dksVZ esjB ?1983 ?47? ,Q-,y-vkj 508&;w-dks-? dh uthj dk gokyk nsrs gq, dgk gS fd feldUMDV og gh gS tks fd dEiuh ds LFkk;h vkns"kkksa eas of.kZr gS A ysfdu ;g uthj ,d dkj[kkus ls lEcU/kr gS vkSj fuxe dk ekeyk bls fHkUu gS A e/; izns"k LVsV jksM V?kUliksVZ dkjiksjs"ku Hkksiky cuke~ Jh ?".k ;kno ?1984& ,l-vkbZ-lh-&,u-th-lh-&12&i`"B &8&e-iz- gk- dks ? esa dgk x;k gS fd ;fn fcuk fVdV dh cl esa lokfj;kW ls tk;h tk jgh gS rks og ,d vijk/k gS A ;fn og [kjk fu;r ls fd;k tk jgk gks] tSlS fd izLrr ekeys esa fd;k x;k gSa A cychj dqekj vk;Z ouke~ jktLFkku LVsV jksM V?kUliksVZ dkjiksjs"ku t;iqj ?1982 ,l-vkbZ-lh-&61&jkt-gk-dksVZ? esa ;g dgk x;k gS fd fcuk fVdV 23 ;kf=;ksa dks ys tkus dk dk;Z nqjpkj.k vkSj Hkz"Vkpj esa vkrk gS ;g nksuksa uthjs bl ekeys esa ykxw gSaa A ;Fkfi fuxe ds vHkh rd dksbZ LFkk;h vkns"k ugha cus gSa] ysfdu muds vHkko esa ;g ugha ekuk tk ldrk fd ;fn dksbZ pkyd ;k ifjpkud voS/k :i esa fcuk fVadV ;kf=;ks dk voS/k :i ls olwyh djds ys tk jgk gks rks mls Hkh Hkz"V vkpj.k u dgk tk, A vr% eS

bl fu"d"kZ ij igWqprk gwW fd Jfed gh ekeysa esa iw.kZr% nks"kh gSa A ysfdu pwwWfd nwljk nks"kh O;fDr pkyd fcjUth yky ds izfr dksbZ dk;Zokgh ugh dh xbZ izrhr gksrh gS vr% Jfed dks nh xbZ ltk cgqr vf/kd cM+h gS A vr% mijksDr fLFkfr esa eSa vkns"k nsrk gwW fd Jfed lrsUnz dwqekj JhokLro dks iqu% Isok esa iquLFkkZfir fd;k tk, ysfdu mls dksbZ Hkh fiNyk cdk;k osru dk Hkqxrku u fd;k tk, vkSj lFk gh Jfed dks mlds in dk izkjfEHkd osru ij izR;kofrZr dj fn;k tk, A rn~uqlkj bl fookn esa eSa viuk vfHkfu.kZ; ikfjr djrk gwW A

Isok;ksydksa Jfed izfrfuf/k dks :i;s 100@&bl fookn ds ifjO;; ds :i esa Hkqxrku djsa A**

6. The Labour Court found the petitioner guilty of the charges but reinstated him only on the ground that Sri Viranji Lal, Driver was not awarded any punishment. It is true that Sri Viranji Lal, Driver continued in service and earned wages but this does not entitle the petitioner to claim parity with him as it has been clearly held by the Labour Court that the petitioner was involved in corruption. No prayer is made in the writ petition by the petitioner clamping wages from the date of his suspension till the date of the Labour Court award. Even otherwise if this prayer of the petitioner is allowed it will amount to a premium or reward for corruption. The punishing authority and the award of the Labour Court has granted the relief of reinstatement but has not granted back wages to the petitioner u/s 11A of the Industrial Disputes Act. It does not require any interference. The review application is misconceived.

For the reasons given above, this application is rejected.