
(2007) 02 DEL CK 0021

In the Delhi High Court

Case No : Writ Petition (C) No. 18386 of 2006

Sh. Bishamber Singh

APPELLANT

Vs

DTC and Another

RESPONDENT

Date of Decision : 15-02-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 138 DLT 145 : (2007) 2 LLJ 948

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : M.M. Singh and Sharad Pandey, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

Hima Kohli, J.—In the present writ petition, the petitioner has assailed the award dated 28th April, 2006 passed by the Presiding Officer, Labour Court whereunder, it has been held that the domestic enquiry conducted against the petitioner workman was held in accordance with the principles of natural justice and that the punishment of removal from service awarded to the petitioner by the respondent/DTC, is not disproportionate to the misconduct proved against him and, Therefore, the same does not call for interference by the court. With these findings, the reference was returned against the said workman.

2. The brief facts of the case are that the petitioner workman was appointed as a conductor with the respondent/DTC in the year 1968-69. On 29th March, 1993, he received an order of suspension passed by the respondent/DTC. On 7th April, 1993, the petitioner was served with a memo wherein charges of irregularity were made against the petitioner. The petitioner filed a reply to the charge sheet. Subsequently, an Enquiry Officer was appointed and enquiry proceedings were conducted against the petitioner in respect of the charges leveled against him that he had taken bribe from a Red-Line Bus Driver while performing his duty on 24.3.1993 as a Time Keeper at Plaza and after perusing the findings of the

Enquiry Officer, an order dated 26th October, 1994 was passed that the petitioner be removed from the services of the respondent/DTC. Thereafter, the petitioner approached the appropriate authority for seeking reference of an industrial dispute between him and the respondent/DTC for adjudication before the Labour Court. The terms of reference were as follows: "Whether the removal of Sh.Bishambhar Singh from service, by the management is illegal and/or unjustified, and if so, to what relief is he entitled and what directions are necessary in this respect?"

3. After the pleadings were complete, two issues were framed on 14th May, 1999. The parties led their respective evidence, pursuant to which the impugned award dated 28th April, 2006 was passed.

4. In the course of arguments, learned for the petitioner stated that he did not wish to challenge the award in so far as it relates to the findings on Issue No.1 i.e. whether the domestic enquiry was conducted in accordance with the principles of natural justice or not, which was decided against the petitioner workman vide an earlier order dated 3rd February, 2005 passed by the Labour Court, but sought to restrict himself only to the issue of quantum of punishment. Counsel for the petitioner submitted that the petitioner is aggrieved by the quantum of punishment awarded to him i.e. removal from service of the respondent/DTC. In support of his contention, he submitted that the Labour Court completely overlooked the fact that the petitioner had rendered 27 years of blemishless service and he ought not to have been visited with the punishment of removal from service, which was too harsh. It was stated that the said punishment is not commensurate with the gravity of the offence for which he had been charged and the same is unjustified in the facts and circumstances of the present case. Learned Counsel for the petitioner referred to certain judgments rendered by the Supreme Court on the quantum of punishment, which are as under:

- (i) Bhagat Ram Vs. State of Himachal Pradesh and Others, .
- (ii) Ranjit Thakur Vs. Union of India (UOI) and Others, .
- (iii) State Bank of India and Others Vs. Samarendra Kishore Endow and Another, .
- (iv) Chandra Vilash Rai Vs. State of Bihar and Others, .
- (v) Damoh Panna Sagar Rural Regional Bank and Another Vs. Munna Lal Jain, .
- (vi) State of U.P. and Others Vs. Jawahar Lal Bhatia, .

5. I have heard the learned Counsel for the petitioner and have also perused the record, including the impugned award.

6. It is settled law that the High Court ought to interfere with the quantum of punishment in exercise of its jurisdiction under Article 226 of the Constitution of India only when it finds that the punishment imposed is shockingly disproportionate to the charges proved. Reference may be made to the recent

judgments of the Supreme Court in the cases of The Managing Director The North East Karnataka Road Transport Corporation Vs. K. Maruti, and Depot Manager, A.P.S.R.T.C. Vs. Raghuda Siva Sankar Prasad, .

7. In the present case, the petitioner workman was found to have taken a bribe from a red line bus driver, while performing his duty as a time keeper at Plaza, pursuant to which a domestic enquiry was conducted by the respondent/DTC against the petitioner workman and he was removed from service. Once the enquiry report was held not to be perverse and the enquiry was found to be conducted in accordance with the principles of natural justice, then the Tribunal rightly arrived at the conclusion that there was no justification in interfering with the order of removal from service. In such cases, there is no place for generosity and sympathy for the purposes of interfering with the quantum of punishment of removal from service.

8. The past conduct of the petitioner workman, assuming the same was blemishless, is not relevant while deciding the quantum of punishment and it is not a sufficient ground to entitle the petitioner workman to any leniency. In the present case, however, as observed by the Labour Court, the past record of the petitioner workman, as filed by the respondent/DTC and examined by the Labour Court also reflects that there were five instances of misconduct on the part of the petitioner in the past. It was keeping in mind this factum that there were number of adverse entries in the past record of the petitioner workman, that the Labour Court held that he cannot be said to be blameless.

9. So far as judgments referred to and relied on by the petitioner are concerned, each case has to be examined at on its own peculiarities and even the aforesaid judgments cited by the learned Counsel for the petitioner reiterate the fact that interference is called for only when it is found that the punishment imposed is shockingly disproportionate to the charges proved. It is also reiterated that while exercising its power of judicial review, the High Court does not sit in appeal from the decision taken, but only reviews the manner in which the decision is arrived at.

10. Keeping in view the facts and circumstances of the case, there is no ground made out for interference in the impugned award dated 28th April, 2006 as the same does not suffer from any infirmity or irregularity. The writ petition is, Therefore, dismissed as being devoid of merits.

11. No orders as to costs.