

(2009) 05 DEL CK 0176

In the Delhi High Court

Case No : Writ Petition (Civil) No. 779 of 2009

Shri Kishori Lal

APPELLANT

Vs

Delhi Transport Corporation

RESPONDENT

Date of Decision : 13-05-2009

Acts Referred:

Citation : (2009) 05 DEL CK 0176

Hon'ble Judges : V.K. Shali, J

Bench : Single Bench

Advocate : Nathu Ram, for the Appellant; Arati Mahajan, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Shali, J.—I have heard the learned Counsel for the petitioner as well as the learned Counsel for the respondent who has appeared in response to the advance copy having been served.

2. The petitioner in the instant case has challenged the award dated 9th July, 2008 passed by Learned Labour Court in ID No. 82/06/97 in case titled Shri Kishore Lal v. Delhi Transport Corporation. By virtue of which not only the domestic inquiry which was held against the petitioner/workman by the respondent/management was held to be valid, legal and fair but even the imposition of punishment of removal was also held to be not disproportionate to the proved misconduct against the petitioner/workman.

3. The petitioner feeling aggrieved by the aforesaid impugned award has assailed the same by way of the present writ petition.

4. The learned Counsel for the petitioner has confined the challenge the impugned award as well as to the order dated 5th February, 1996 only on the quantum of punishment.

5. It has been urged by the learned Counsel for the petitioner that quantum of punishment which has been imposed on the petitioner is disproportionate to the

proved misconduct in as much as the petitioner had rendered 18 years of unblemished service while as on account of the alleged misconduct of not having issued tickets to three passengers in the instant case has been considered to sufficient to visit him with the punishment of removal.

6. I have considered the submissions made by the learned Counsel as well as perused the award dated 9th July, 2008.

7. The fact of the case are not in dispute according to the petitioner/workman was held to be guilty in a domestic inquiry for not having issued tickets to three of the passengers while he was on duty on Bus No. 9899 route from Nalagarh to Delhi. The date of incident was 21st October, 1994. On the basis of the aforesaid proved misconduct, the disciplinary authority imposed the punishment of removal. It seems that the petitioner did not succeed in the departmental appeal which ultimately culminated into the adjudication by the learned Labour Court with regard to the fairness of the domestic inquiry as well as the quantum of punishment. The learned Labour Court has passed a detailed and reasoned award and taken note of the three cases of the Apex Court in similar circumstances where the Conductor of a road transport corporation who has been found to be guilty of having collected the money for issuance of ticket and not issued the tickets, he has been visited with the punishment of removal/dismissal. In these cases, the Apex Court has observed that it is not the quantum of money which is collected by the Conductor but it is the question of trust which is breached by the said delinquent employee. These cases are:

Karnataka State Road Transport Corporation v. B.S. Hullikatti 2001(I) LLJ 740 SC

Regional Manager, R.S.R.T.C. v. Ghanshyam Sharma 2002 (I) LLJ 264

UPSRTC v. Ram Kishan Arora 2007 V SLT 252

8. While imposing this punishment of removal in the instant case the disciplinary authority has taken into consideration the past service record of the petitioner whereupon it has been observed that for similar incidents in the past the petitioner has been also visited with major penalty of stoppage of increment with cumulative effect.

9. One of the contentions of the authorized representative of the petitioner/workman before the learned Tribunal has been that since the past service record was not proved in accordance with law, therefore, it was not proper for the disciplinary authority or for that matter the learned Labour Court to have justified the imposition of punishment of removal on the petitioner on taking into consideration the past record.

10. The learned Labour Court accepted this plea and observed that even if the past record is not taken into consideration even then the Conductor functions in the fiduciary capacity for the Road Transport Corporation, and therefore, it is expected of him to maintain a very high standard of integrity and uprightness which the petitioner has been found to be wanting, and therefore, as observed

that the punishment which has been imposed on the petitioner cannot be said to be disproportionate warranting any interference.

11. The learned Labour Court has also referred two other judgments where the High Court in somewhat similar circumstance of breach of trust had reduced the punishment to stoppage of increment with cumulative effect in place of penalty of removal or dismissal that the Apex Court enhanced the punishment to its original position by observing that the High Court was not justified in reducing the punishment as the charges leveled against the petitioner were very grave.

12. Keeping in view the detailed analysis and critical consideration given by the learned Labour Court and the legal position as in existence the quantum of money involved hardly should make any difference in the imposition of punishment because in such cases it is not the question of money involved but it is a question of breach of trust, breach of faith which the employer has placed implicitly in its employee and to continue with such a employee will only embolden him to indulge in such activities for future.

13. This Court feels that the punishment of removal which was imposed on the petitioner keeping in view the proved misconduct can by no stretch of parameters or reasoning be said to be disproportionate which may warrant setting aside the same and imposing a lesser punishment or warranting the matter remanded back to the disciplinary authority for consideration of punishment afresh.

14. For the foregoing reasons mentioned above, the writ petition is without any merit, and accordingly, dismissed.

No order as to costs.