

(2011) 04 UK CK 0058
In the Uttarakhand High Court
Case No : Writ Petition (S/S) No. 1242 of 2010

Sri Niwas

APPELLANT

Vs

Uttarakhand Transport Corporation Ltd. and Others

RESPONDENT

Date of Decision : 29-04-2011

Acts Referred:

Uttar Pradesh State Road Transport Corporation Employees (Other than Officers)
Service Regulations, 1981 — Regulation 69A

Citation : (2011) 04 UK CK 0058

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sudhanshu Dhulia, J.—Heard Sri Anil Kumar Joshi, Advocate for the Petitioner and Sri H.S. Rawal, Advocate for the Respondents.

2. By means of the present writ petition, the Petitioner has challenged the jurisdiction of the Managing Director, Uttarakhand Transport Corporation, who has passed the impugned order dated 11.11.2009 which is Annexure No. 1 to the writ petition. The impugned order dated 19.9.2009 has been passed by the Managing Director of the Uttarakhand Transport Corporation under purported exercise of power under Regulation 69 A of U.P. Road Transport Corporation Employees (other than officers) Service, Regulation, 1981. Regulation 69 A reads as under:

69. A. Notwithstanding anything contained in these regulations the Chairman or in his absence the Managing Director of Uttar Pradesh State Road Transport may, on its own motion, or otherwise, call for the record of any case relating to dismissal, removal and reduction in rank decided by any of the authorities subordinate to him in exercise of powers conferred by these Regulations and

(a) confirm, modify or reverse the order passed by such authority or

(b) direct that a further enquiry be held in the case, or

- (c) reduce or enhance the penalty imposed by such order, or
- (d) made such other order in the case as it may deem fit.

Provided that if enhancement in the penalty imposed where by any such other order, the employee concerned, shall be given opportunity of showing cause against the proposed enhancement.

Provided that if enhancement in the penalty imposed whereby any power on its own motion, or otherwise, shall not call for the record beyond the period of three months from the date of order in appeal.

3. The Petitioner is a conductor in Uttarakhand Transport Corporation. Departmental proceedings were initiated against the Petitioner for certain charges in the year 2009. Subsequently, the departmental proceedings culminated in an order dated 11.10.2007 by which a punishment of stoppage of three annual increments without cumulative effect was imposed on the Petitioner. This order became final, inasmuch as it was not challenged by the Petitioner in any departmental appeal. However, the Managing Director, Uttarakhand Transport Corporation under purported exercise of power under Regulation 69 A summoned the record suo moto and passed the impugned order dated 11.11.2009. It is the clear view of this Court that this exercise of power by the Managing Director was totally beyond the jurisdiction for the simple reasons that it is not a case of dismissal, removal or reduction in rank. The punishment which was imposed was stoppage of three annual increments without cumulative effect. Hence taking cognizance of this matter suo moto by the Managing Director is wholly illegal. The Managing Director while passing the impugned order dated 11.11.2009 has dismissed the Petitioner from service. In view of this factual and legal position the impugned order passed by the Managing Director is wholly without jurisdiction, as the Managing Director has travelled beyond his jurisdiction, contained in Regulation 69 A.

4. This Court on similar set of facts vide order dated 6.1.2011 had allowed a writ petition being Writ Petition No. 1140 of 2009 (S/S).

5. This writ petition is also allowed in terms of the decision dated 6.1.2011 passed in writ petition No. 1140 of 2009 (S/S). Order dated 11.11.2009 (Annexure No. 1 to the writ petition) passed by the Managing Director, Uttarakhand Transport Corporation is hereby set aside.

No order as to costs.