

(2013) 08 KAR CK 0209

In the Karnataka High Court

Case No : Writ Petition No. 19328 of 2013 (L-KSRTC)

The Divisional Controller Karnataka State Road Transport Corporation

APPELLANT

Vs

C.K. Basavaraju

RESPONDENT

Date of Decision : 20-08-2013

Acts Referred:

Industrial Disputes Act, 1947 — Section 11-A

Citation : (2013) 08 KAR CK 0209

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : L. Govindraj, for the Appellant; S.P. Ramesh, for the Respondent

Final Decision : Allowed

Judgement

Ram Mohan Reddy, J.—Sri. S.P. Ramesh, learned counsel takes notice for respondent-workman. Four weeks time to file vakalath. The Road Transport Corporation aggrieved by the award dated 13.12.2011 in I.D. 197/2009 Annexure-D of the Industrial Tribunal, Hubli, has presented this petition.

2. The Disciplinary Authority having issued notice to the respondent-conductor for commission of certain acts of misconduct, led to the order dated 9.6.1997 holding the respondent guilty of the acts of misconduct and imposing the punishment of reduction of the basic pay by two incremental stages. The validity of that order, being an industrial dispute, when raised by the respondent-workman, was referred to the Industrial Tribunal by the State Government in exercise of jurisdiction under the Industrial Disputes Act, 1947. The Tribunal by the award impugned held that the misconduct though established, nevertheless without holding a domestic enquiry into the alleged misconduct, was a circumstance indicating that the quantum of punishment was on the higher side and accordingly modified the punishment by reducing it to one of withholding of one increment of the year 1996 for a period of one year without cumulative effect without having the effect of postponing future increments of the workman.

The Industrial Tribunal fell in error on the following two counts:

i) this court in Ankappa Vs. Management of K.S.R.T.C. Bangalore, observed that under Regulation 22(B) of the KSRTC (Conduct and Discipline) Regulations, 1971, an enquiry would become unnecessary only in case the disciplinary authority considers it to be so and records its opinion in express terms on the said issue and that while considering any such question of either holding or dispensing with an enquiry, the disciplinary authority was bound to consider in a fair and objective manner not only the nature of the charges leveled against the employees but also the nature of the defence set up by him;

(ii) that the Apex Court in The General Secretary, South Indian Cashew Factories Workers' Union Vs. The Managing Director, Kerala State Cashew Development Corporation Ltd. and Others, observed that Section 11-A of the Industrial Dispute Act is applicable in case of dismissal or discharge of a workman and not to disciplinary orders imposing punishment other than dismissal or discharge.

For the aforesaid two reasons, the award of the Labour Court is unsustainable.

In the result, this petition is allowed. The award impugned is quashed and the proceeding remitted for consideration afresh and to pass an award after extending reasonable opportunity of hearing to the parties and in the light of what is noticed supra.