

(2001) 10 KAR CK 0045
In the Karnataka High Court
Case No : Writ Petition No. 549 of 2001

The Divisional Controller, Karnataka State Road Transport
Corporation, Mangalore Division

APPELLANT

Vs

C.A. Erappa

RESPONDENT

Date of Decision : 06-10-2001

Acts Referred:

Constitution of India, 1950 — Article 12
Industrial Disputes Act, 1947 — Section 10

Citation : (2003) 2 KarLJ 243 : (2002) 1 KCCR 648

Hon'ble Judges : R. Gururajan, J

Bench : Single Bench

Advocate : Basavaraj V. Sabarad, for the Appellant; V.S. Naik, for the Respondent

Final Decision : Dismissed

Judgement

R. Gururajan, J. 1. The Divisional Controller, K.S.R.T.C. is before this Court challenging the award dated 18-8-2000 passed in I.D.R. No. 5 of 2000.

2. The State Government has referred the following issues in its order dated 22-3-2000.

3. Objection statements were filed by the parties.

4. The Labour Court has framed 5 issues and has answered the same in para 6 of the award. Evidence was also recorded before the Labour Court. The workman examined himself in addition to producing the documents. The management did not examine any witnesses. It produced 9 documents. The Labour Court in the light of the material placed on record, has passed the following order:

"1. Reference is accepted.

2. The order of termination of the I party on 23-11-1996 and order in Ex. M. 8 is set aside and quashed.

3. The I party shall be reinstated to the same post with continuity of service.
4. I party is entitled to back wages to the extent of 50% from 23-11-1996 until he is reinstated.
5. 2 months' time is granted for compliance.
6. The I party is also entitled to the cost of this case quantified at Rs. 1,500/-.
7. Sent a copy to the Government".
5. This award is challenged by the Corporation.
6. Heard Sri Basavaraj V. Sabarad, learned Counsel appearing for the petitioner and Sri V.S. Naik, learned Counsel appearing for the workman.
7. Sri Basavaraj V. Sabarad, learned Counsel, reiterates the grounds raised in the petition in support of his case. He argues that on the facts of this case, the order of reinstatement coupled with back wages is uncalled for in the given set of facts.
8. Per contra, Sri V.S. Naik, learned Counsel, invites my attention to the various factual findings by the learned Judge. He also says that the management did not examine any witnesses. He supports the award. After hearing the learned Counsels on either side, the following order is passed.
9. Admittedly, it is a case of reference made u/s 10 of the Industrial Disputes Act by the State Government. The workman in the claim statement has stated that he was working right from 1995 on Rs. 46/-per day as a Conductor in Madikere Depot. He was refused employment.
10. Per contra, the management contended before the Labour Court that the respondent is not a workman within the meaning of Section 2(s) of the Act. He was only a trainee against a short term vacancy, according to the averments made in the objection statement. The management further states that the petitioner was placed under suspension pending enquiry. It was further stated that he was involved in several pilferage cases. He was conducting bus No. F. 252 on 27-9-1996. He failed to issue tickets to the passengers. The disciplinary authority perused the case papers and stopped the I party from working in the Corporation. The workman got himself examined in addition to producing 3 documents in support of his case. The management did not examine anybody and instead produced 9 documents. The 9 documents produced would show that the management has chosen to inflict some punishments on the petitioner. But at the same time, they have not held any enquiry, whatsoever. In fact, it is seen from the documents filed by the management that the waybill was marked as Ex. M, 5; memo was issued in terms of Ex. M. 4; the unpunched tickets were seized at Ex. M. 6; a report was obtained in terms of Ex. M. 9. Having obtained these reports against the workman, the Corporation ought to have conducted an enquiry in the matter. Instead, they have stopped the workman working in terms of Ex. M. 8. The Corporation is a public authority and a State in terms of Article 12 of the Constitution of India. It cannot abruptly stop the petitioner from

services for certain misconduct. If any misconduct is committed by the petitioner, the Corporation ought to have held a proper enquiry, but stoppage, on the basis of certain allegations certainly is not permissible in law. The Labour Court, after appreciation of these aspects, is right, in my view, in setting aside the stoppage and in ordering reinstatement of the petitioner in service. It is also on record that the management has not chosen to examine anybody in the matter. This also goes against the management. In these circumstances, the Labour Court cannot be said to have committed any error in the given set of facts in granting relief of reinstatement to the petitioner.

11. Contentions of the management that the respondent is not a workman has rightly been rejected by the Labour Court. It is immaterial with regard to the days of working of the petitioner. Once the management wants to charge the workman, the days of working has no effect on such action. In these circumstances, the Labour Court is right in granting relief in the case on hand.

12. The Labour Court has also granted 50% of the back wages from 1996 i.e., the date of stoppage of the workman by the Corporation. The management has not chosen to lead any evidence, whatsoever, in the case on hand with regard to the back wages. In the absence of any evidence, the Labour Court has no option but to grant back wages to the workman. It is not the case of the management that the workman is gainfully employed, anywhere. Having held that the action of the management is improper and illegal, the Labour Court has rightly granted only 50% in the case on hand. The Labour Court has also granted continuity of service. In these circumstances, I do not find any justifiable grounds to interfere with the reasoned award of the Labour Court.

13. Before concluding, I must point out that the Labour Court is an original authority. Only a writ petition is available to the aggrieved parties in these labour matters. Therefore, it is absolutely necessary for the parties to place evidence in support of their respective contentions. Since that burden has not been discharged, the Corporation cannot move this Court in challenging these orders. It is hoped that the Corporation avoids such lapses in future in its own interest and in maintaining discipline and avoiding public expenditure.

14. In the result, for the forgoing reasons, the petition stands-dismissed but parties to bear their respective costs.