

(2011) 03 KAR CK 0150
In the Karnataka High Court
Case No : Writ Petition No. 12951 of 2010

The Divisional Controller, K.S.R.T.C., Hassan Division

APPELLANT

Vs

Sri Chandrashekarappa

RESPONDENT

Date of Decision : 14-03-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 10 (4A), 11 A

Citation : (2011) 03 KAR CK 0150

Hon'ble Judges : A.N. Venugopala Gowda, J

Bench : Single Bench

Advocate : K.S. Bharath Kumar, for the Appellant; L. Shekar, for C/R, for the Respondent

Final Decision : Dismissed

Judgement

A.N. Venugopala Gowda, J.—The Respondent, a trainee conductor while conducting the bus bearing No. F-0179 on 20.5.1999 between Chikmagaluru to Halasumane, was found to have committed misconduct by the checking staff. It was found that, he had not collected the fare of Rs. 3/- each nor had issued tickets to a group of 6 passengers who were travelling from Chikmagalur to Vsilgerahalli village and had failed to issue tickets to a group of 15 passengers who were travelling from Chikmagaluru to Aladaguddi, despite collecting requisite fare of Rs. 50 each. Upon receipt of the report from the checking inspectors, the Disciplinary Authority issued a show Cause notice dated 26.5.1999 to the Respondent who submitted a reply. Not satisfied with the reply received, the name of the Respondent from the list of trainee conductors was ordered to be deleted on 17.11.1999. The workman raised a dispute and filed a claim u/s 10(4A) of the Industrial Dispute Act, 1947 ("the Act" for short) challenging the said order before the Labour Court at Chikmagalur. The management filed counter statement. Based on the pleadings of the parties, issues were raised. Issue No. 1 was subsequently deleted. The management having been called upon to lead evidence, examined 2 witnesses and marked 9

documents. The workman got himself examined. Appreciating the evidence on record, the Labour Court held that the management is not justified in removing the name of the workman from the list of trainee conductors from 17.11.1999. Finding that, the workman has committed the alleged misconduct and that he has no past history, treating the misconduct in question as the first act, the impugned order was set aside and the management was directed to reinstate the workman in his original post together with continuity of service and other consequential benefits but without back wages. As a measure of punishment, the management was permitted to withhold 2 ensuing increments of the workman with cumulative effect. Aggrieved, the management has filed this writ petition.

2. By an interim order dated 22.4.2010, while granting stay of the impugned award, the management was directed to reinstate the workman and pay the current wages subject to the result of the writ petition. The management has taken back the workman as a trainee conductor.

3. Sri Bharath Kumar, learned Counsel appearing for the Petitioner contended that, the Respondent had 21 previous acts of similar nature and in the circumstances, the Labour Court is not justified in interfering with the punishment imposed on 17.11.1999 and directing the workman to be reinstated to his original post. According to the learned Counsel, the impugned award is arbitrary and the Labour Court has shown misplaced sympathy.

4. Sri L. Shekar, learned Counsel appearing for the Respondent on the other hand would submit that, there was no previous misconduct committed by the workman and the allegation that there were 21 acts of similar misconduct in the post was not even proved by producing any material before the Labour Court and in the circumstances, the Labour Court is justified in passing the impugned award.

5. I have perused the record.

6. The Labour Court has recorded a specific finding that, the alleged misconduct In the show cause notice dated 26/27.5.1999 as at Annexure-.A, has been established. The workman had not followed the rule "issue and start". The workman has committed the alleged misconduct and the findings recorded by the Labour Court against the workman, has remained unchallenged. Even otherwise, the findings are well founded as per evidence of MWs. 1 and 2 and exhibited documents would clearly prove that the workman has committed misconduct alleged against shown In Ex.M.7.

7. The punishment imposed by the management being one to deleted the name of the workman from the list of trainee conductors, the Labour Court in exercise of its power u/s 11-A of the Act, has interfered in the matter. In my opinion, the punishment imposed by the Labour Court i.e., permitting the management to withheld 2 ensuing increments with cumulative effect, would meet the ends of justice. The workman having been reinstated to duty as an interim measure, shall continue in duty.

There is no merit in the writ petition and the same shall stands dismissed. No costs.