

(2013) 01 KAR CK 0143

In the Karnataka High Court

Case No : Writ Petition No. 80492 of 2011 (L-KSRTC)

The Divisional Controller, NEKRTC

APPELLANT

Vs

Smt. Mehirunnisa Begum and Others

RESPONDENT

Date of Decision : 03-01-2013

Acts Referred:

Citation : (2013) 01 KAR CK 0143

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : Amaresh S. Roja, for the Appellant; Krupa Sagar Patil, for R1 to R3 and R5 R4 and R6 are Minors Represented by R1, for the Respondent

Judgement

S. Abdul Nazeer

1. This writ petition is directed against the award in KID No. 61/2002 dated 31.3.2008 passed by the Labour Court at Gulbarga. Respondent No. 1 is the wife of Farook, respondent Nos. 2 to 6 are his children and respondent No. 7 is his mother. Farook had been working with the North East Karnataka Road Transport Corporation, Gulbarga Division, as Conductor. Disciplinary proceedings were initiated against him and it was alleged that he did not issue tickets to the passengers nor collected the fare. The misconduct was proved before the disciplinary authority. Consequently, he was dismissed from service. Farook filed a claim petition in KID No. 61/2002 before the Labour Court, Gulbarga, challenging the order of dismissal passed by the disciplinary authority. During the pendency of the proceedings before the Labour Court, Farook died. Therefore, his legal representatives have been brought on record. The Labour Court by its award dated 31.3.2008 at Annexure "F" has set aside the order of dismissal and has directed the Corporation to pay retirement benefits.

2. I have heard the learned Counsel for the parties.

3. Learned Counsel for the petitioner would contend that the Corporation has established before the Labour Court that the workman has misappropriated the

funds of the Corporation. Without recording any finding with regard to misconduct committed by the workman, the Labour Court has set aside the order of the disciplinary authority.

4. On the other hand, learned Counsel appearing for the respondents has sought to justify the impugned award.

5. I have carefully considered the arguments of the learned Counsel at the Bar and perused the materials placed on record.

6. The Labour Court has held that the enquiry held by the disciplinary authority is fair and proper. Therefore, the parties have let in their evidence. On behalf of the Corporation, Ramesh Patil, the Assistant Traffic Superintendent was examined as MW1. Documents at Ex.M1 to Ex.M5 have been marked in his evidence. The Corporation has also examined a witness by name Siddanagouda as MW2. Both of them were cross-examined on behalf of the claimants. Farook, the deceased workman was examined as WW1. He was also cross-examined on behalf of the Corporation. Perusal of the impugned award would indicate that the evidence of the parties has not been considered by the Labour Court nor has it recorded a finding as to whether the deceased workman had committed misconduct. It has not even discussed the issue relating to proportionality of punishment. I am of the view that the Labour Court has to reconsider the matter. Therefore, the order at Annexure "F" dated 31.3.2008 in KID No. 61/2002 passed by the Labour Court, Gulbarga, is hereby quashed. The matter is remitted back to the Labour Court, Gulbarga, for fresh disposal in accordance with law after due notice to the parties concerned. Writ petition is disposed of accordingly. Registry is directed to send the records back to the Labour Court, Gulbarga, forthwith. No costs.