
(2011) 09 AHC CK 0052
In the Allahabad High Court
Case No : Writ C. No. 44924 of 1998

U.P. S.R.T.C.

APPELLANT

Vs

Ramkishan and Others

RESPONDENT

Date of Decision : 06-09-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B

Citation : (2011) 09 AHC CK 0052

Hon'ble Judges : Sibghat Ullah Khan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sibghat Ullah Khan, J.—Heard learned Counsel for the parties.

2. This writ petition by the employer is directed against award dated 15.04.1998 given by Presiding Officer, Labour Court U.P. Agra in Adjudication Case No. 481 of 1993. The matter which was referred to the labour court was as to whether action of Petitioner employer terminating the services of its workman conductor Respondent No. 1 w.e.f. 22.02.1988 was just and valid or not? The dispute was raised after five years, i.e. in the year 1993.

3. The charge against the Respondent No. 1 was that he was carrying 27 ticketless passengers on 08.07.1987. Thereafter charge-sheet was given to Respondent No. 1. Services were terminated after domestic enquiry.

4. Workman Respondent No. 1 raised the plea before the labour court that domestic enquiry was not fair, however through order dated 15.04.1998 after thoroughly discussing the allegations of the workman, the labour court held that enquiry was completely fair. In the award in the first paragraph which is Para-11 as the award is in continuation of the order dated 12.02.1998 it is mentioned that parties were heard on relevance of evidence and quantum of punishment. Thereafter, In the last paragraph i.e. Para-13 the labour court held that the charges were not fully proved and benefit of doubt should be given to the

workman. Ultimately reinstatement with 25% back wages was ordered.

5. The checking was made by getting stopped the moving bus. The explanation that ticket-less passengers had just boarded was not accepted by the Inquiry Officer and rightly. If such an explanation is accepted, No. conductor can be booked for carrying ticketless passengers.

6. In Commissioner of Police, New Delhi Vs. Narender Singh, it has been held that guilt is proved in domestic inquiry by preponderance of evidence and there is No. such requirement that it should be proved beyond doubt which is the criteria applicable only in criminal trials. In Employers Management West Bokaro Colliery of TISCO Ltd. Vs. Concerned Workman, Ram Pravesh Singh, it has been held that labour court cannot sit in appeal over the findings recorded by Inquiry Officer.

7. In North West Karnataka Road Transport Corpn. Vs. H.H. Pujar, and Divisional Manager, Rajasthan S.R.T.C. Vs. Kamruddin, it has been held that if conductor is found carrying ticketless passengers the only punishment which shall be awarded is of termination of service.

8. In this writ petition on 05.01.1999 patent interim order was passed directing deposit of 50% of the back wages payable under the impugned award and payment of future back wages at the rate as admissible u/s 17-B of the Industrial Disputes Act. Learned Counsel for the workman at the time of final hearing stated that after the interim order workman was taken back in service, however he was paid only the wages which he was drawing at the time of termination of his service. It has further been stated that the workman retired on attaining the age of superannuation in March, 2009.

9. Accordingly, writ petition is allowed. Impugned award is set aside. However, whatever amount has been paid to the workman shall not be refundable. If the amount deposited under interim order dated 05.01.1999 is still available with the labour court then the same along with all the accrued interest shall be returned to the Petitioner employer.