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**(2012) 12 UK CK 0010**  
**In the Uttarakhand High Court**  
**Case No : Writ Petition No. 986 of 2002**

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|---------------------------------------|------------|
| U.P. State Road Transport Corporation | APPELLANT  |
| Vs                                    |            |
| State of U.P.                         | RESPONDENT |

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**Date of Decision :** 26-12-2012

**Acts Referred:**

Uttar Pradesh Industrial Disputes Act, 1947 — Section 4(K), 4K

**Citation :** (2013) LabIC 574 : (2013) 2 LLJ 762

**Hon'ble Judges :** Brahma Singh Verma, J

**Bench :** Single Bench

**Advocate :** D.C.S. Rawat, for the Appellant; Pankaj Sharma, Brief Holder and Gopal Narin, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Brahma Singh Verma, J.—By means of this petition the petitioner has sought a writ in the nature of certiorari quashing the impugned order/award dated 7-7-1999, published on 17-7-1999, passed by the respondent No. 2 (Labour Court) in Industrial Claim Case No. 243 of 1998, Regional Manager U.P. S.R.T.C. Dehradun v. Rajendra Kumar, u/s. 4(K) of U.P. Industrial Disputes Act, 1947. Brief facts of the case giving rise to the present writ petition are that the respondent No. 3, Rajendra Kumar was engaged as a conductor in U.P. State Road Transport Corporation, region Dehradun. On 12-5-1994, he was on duty with Bus No. 9626 on route Mussorrie - Dehradun. The checking staff headed by Checking Inspector of the Corporation checked the aforesaid Bus and found 12 persons travelling in the bus without ticket. Thereafter a charge-sheet dated 22-9-1994 was issued against the respondent No. 3 and the respondent No. 3 submitted his reply to the charge-sheet on 22.10.1994. The enquiry was transferred to Assistant Regional Manager, Hill Depott. Dehradun. When the investigation was going on, another incident of embezzlement and negligence of the respondent No. 3 came in light on 20-6-1995 when he was on duty as conductor in Bus No. U.P. 18/9620 and on checking 16 passengers were found

travelling without ticket. The department on receiving the report of first incident suspended the respondent No. 3 vide order dated 26-6-1995 and issued a charge-sheet dated 29-6-1995 with regard to second incident of 20-6-1995. The respondent No. 3 sent his reply on 26-9-1995 denying the charges levelled against him and alleged that he was not feeling well on the day of incident so he sat on the bonnet of the bus and due to his sickness he could not prepare the way bill and issued the tickets to the passengers timely. An enquiry was made by Assistant Regional Manager Hill Depott. Dehradun regarding the second incident and the charges levelled against the respondent No. 3, were found correct and thereafter the department issued show cause notice dated 17-4-1996 and after receiving the reply the inquiry was conducted by the enquiry officer and found the respondent No. 3 guilty of charges. The Regional Manager Dehradun examined both the inquiry reports and terminated the services of the respondent No. 3 vide order dated 23-5-1998. The respondent No. 3 raised an industrial dispute and the State Government referred the dispute to Labour Court u/s 4-K of U.P. Industrial Disputes Act.

2. The respondent No. 3, filed his written statement before the Labour Court. The petitioner/employer also filed reply to the written statement of the respondent No. 3 and the same had been treated as written statement. The Presiding Officer thereafter passed the award dated 7-7-1999 holding that the termination of the respondent No. 3, not being proportionate to the seriousness of the charges and being severe, is improper and illegal, and instead direction was given to stop two increments of the respondent No. 3 and the workman was reinstated in service. The workman was also granted back-wages and difference of suspension allowances.

3. Feeling aggrieved by the impugned award, the petitioner, employer has file this writ petition alleging that the respondent No. 3 had committed a serious offence of not issuing tickets to the passengers and the learned Labour Court has taken a very lenient view in the matter.

4. Counter-affidavit has been filed by the respondent No. 3/workman. In the counter-affidavit it has been alleged that on 12.5.94 when he was on route Mussoorie Jharipani, at one place several students boarded the bus and at some distance the bus was stopped and checked and the fare money and penalty amount were paid on behalf of 12 student passengers by a person known to them and the receipts therefore were issued to them by the checking authority. With regard to second incident it was alleged that the workman was not feeling well and due to sickness he sat on the bonnet of the Bus and as there was no seat available in the bus. Some passengers boarded the bus near Kuthal Gate and just thereafter checking staff stopped the bus and 16 passengers were found without ticket and the fare was charged and collected by the checking authority from them.

5. I have heard learned counsel for the parties and perused the impugned award.

6. From perusal of impugned award it shows that the workman has raised plea before the Labour Court that the inquiry conducted by the department against him was not done in accordance with the principle of natural justice. He was not given proper opportunity of hearing and the finding of the inquiry officer in both the inquiries was perverse and the punishment given to him was severe punishment.

7. The learned Labour Court framed following points for determination:--

1. Whether the departmental enquiries, against the workman were not conducted in accordance with the principles of natural justice?.

2. Whether the conclusion of the inquiry officer is perverse?.

3. Whether the punishment awarded to the workman is severe punishment?.

8. The learned Labour Court on point No. 1 has held that the workman had participated in the departmental inquiry and he had also cross-examined the witnesses produced by the employer, but he had not produced any evidence in support of his version. The department enquiries were conducted in accordance with the principle of natural justice.

9. On point No. 2, the learned Labour Court has held that in the first incident dated 12-5-1994, 12 passengers out of 20 were found without ticket. The inquiry officer in its enquiry report has not given a clear inference that the conductor had already realized the fare from these 12 persons. The Assistant Regional Manager in his statement before the inquiry officer had stated that he had not made any inquiry about the without ticket passengers and also did not check the cash of the conductor and on the ticket which were prepared for these 12 passengers, name of conductor was written. Therefore, it was held that the finding of the inquiry officer that the conductor wanted to grab the amount of fare of these 12 passengers was a perverse finding.

10. In respect of subsequent incident dated 29-5-95, the learned Labour Court has held that according to the employer the workman had already realized the fare of 16 passengers which were found without ticket, and the employer in support of its assertion, relied on the remark made in the way bill at the time of checking that "due to mistake tickets were not given to 16 passengers, in future this will not happen and penalty be realized in installments". The case of the workman had been from the very beginning that this remark on the waybill was made under pressure of Sri Dilip Kumar Asstt. Regional Manager. Whereas the case of the workman was that he was not feeling well and in the way several persons had boarded the bus. Further the passengers traveling without ticket were not apprehended by the checking party whether any fare was realized from them or not. The Assistant Regional Manager Sri Dilip Kumar in his statement before the inquiry officer had stated that the workman had distributed tickets to 42 passengers and he had totaled the amount of the tickets and he was sitting liberally in the Bus. It was further observed by the Labour Court that if there was

any wrong intention of the workman then it was not possible to him that out of 58 passengers inside the Bus, tickets were given only to 42 passengers. The Labour Court had taken the version of employer as true that 16 passengers were traveling without ticket but it was observed that the workman had no bad intention to grab the fare of 16 passengers.

11. On point No. 3 the punishment of termination awarded to the workman by the employer was held to be severe and set aside the punishment and instead direction was given to stop two increments of the workman and he was reinstated in service. The workman was also awarded back wages and difference of suspension allowances.

12. In view of discussion made in the foregoing paragraphs, I do not find any infirmity in the above view taken by the learned Labour Court.

13. The writ petition lacks merit and is liable to be dismissed.

14. The writ petition is dismissed. The impugned award is affirmed. The interim order dated 15-12-1999 passed by the High Court is made absolute.