

(2003) 02 KAR CK 0095
In the Karnataka High Court
Case No : W.A. No. 5900 of 2002

Vasudeva Naik B.

APPELLANT

Vs

Karnataka State Road Transport Corporation (KSRTC) and
Another

RESPONDENT

Date of Decision : 21-02-2003

Acts Referred:

Industrial Disputes Act, 1947 — Section 11 A

Citation : (2003) 97 FLR 955 : (2003) 2 LLJ 697

Hon'ble Judges : S.R. Nayak, J;K. Ramanna, J

Bench : Division Bench

Advocate : M. Subramanya Bhat, for Subba Rao and Co, for the Appellant;

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—This writ appeal is by the delinquent conductor. While serving in the establishment of the KSRTC, a charge memo was issued alleging that the appellant, despite collection of fares from six passengers did not issue tickets to them and did not account for the collection to the credit of the Corporation. After holding a regular domestic enquiry under the Karnataka State Road Transport Corporation Servants (C and D) Regulations, 1971, the charges are held to have been proved. The Disciplinary Authority, accepting the findings recorded in the domestic enquiry, dismissed the delinquent from service which led to the appellant instituting an Industrial Dispute before the Labour Court, Mangalore.

2. Before the Labour Court, parties were permitted to lead evidence. The Labour Court, after recording evidence and on appreciation of the same has come to the conclusion that the charge levelled against the appellant-petitioner has been, satisfactorily proved. Nevertheless, the Labour Court, in exercise of its discretionary power u/s 11-A of the Industrial Disputes Act, 1947 thought it appropriate to direct reinstatement of the appellant into service while denying entire back wages as well as four increments with cumulative effect. The workman, not being satisfied with the said award of the Labour Court, preferred

Writ Petition in W.P. No. 29641/2002 in this Court. The learned single: Judge of this Court, without finding any substantial grounds to interfere with the discretionary order of the Labour Court and having regard to the nature of misconduct committed and held proved by the appellant-workman, refused to grant any further relief to the appellant by the order impugned in this Writ Appeal.

3. We have heard the learned counsel for the appellant and perused the award of the Labour Court as well as the order of the learned single Judge. The misconduct committed by the appellant is that, despite collection of fares from six passengers, he failed to issue tickets and did not account the same to the credit of the Corporation. Such misconduct could not be regarded as a minor misconduct on the part of the delinquent workman. It is held by the Courts that a conductor, who is in the service of the public-sector transport corporation like KSRTC, is a trustee of the funds of the corporation and high degree of integrity is expected of him in performance of his duties and functions. If the Court were to interfere with the disciplinary action taken by the Disciplinary Authority against unscrupulous conductors, it would tantamount to the Court showing misplaced sympathy and the same would jeopardize the public interest. It is held by the Apex Court that unless the punishment imposed against a delinquent workman is either impermissible or that it shocks the conscience of the Court, the High Court should not normally substitute its own finding or its own opinion and impose some other punishment. In the instant case, the punishment imposed does not shock our conscience nor the punishment imposed can be said to be totally disproportionate so as to apply Wednesbury principle. Therefore, in our considered opinion the learned single Judge is justified in declining to interfere with the award passed by the Labour Court. No good grounds are made out before us to interfere with the discretionary order passed by the learned single Judge.

In the result, the Writ appeal is dismissed with no order as to cost.