(2006) 10 AHC CK 0180

Allahabad High Court

Case No: None

U.P. State Road Transport Corporation		APPELLANT
	Vs	
The State of U.P., The Presiding Officer, Labour Court (II) and Bhagwan Singh Parmar		RESPONDENT

Date of Decision: Oct. 3, 2006

Citation: (2006) 7 AWC 6638

Hon'ble Judges: S.U. Khan, J

Bench: Single Bench

Final Decision: Allowed

Judgement

S.U. Khan, J.
The order of 20.9.2006 on the order sheet is quoted below:

List revised. Sri S.C. Shukla learned Counsel appearing for workman respondent No. 3 states that he has got no instruction on behalf of respondent No. 3.

Heard learned Counsel for the petitioner and perused the writ petition as well as supplementary affidavit filed on 17.5.2006.

Judgment reserved.

2. This writ petition is directed against award dated 19.5.1987 given by Presiding Officer Labour Court (II) Kanpur in Adjudication case No. 143 of 1985. Respondent No. 3 Bhagwan Singh Parmar was conductor working with Petitioner Corporation. He was found carrying several passengers with insufficient tickets at the time of surprise checking on 18.10.1978. It was found that some passengers were charged for a longer distance, which they were actually to cover however they were issued tickets of shorter distance. In departmental proceedings full opportunity was given to the respondent No. 3 and it was

found that the charge against him was proved. However Labour Court held that the said enquiry was not proper. Accordingly evidence was adduced before the Labour Court. The Labour Court held the charges not to be proved mainly on the ground that at the time of surprising checking conduct of the conductor was. cooperative, and neither the passengers to whom tickets of shorter distance had been issued nor other passengers were examined. The fact that other passengers did not lodge any complaint against the conductor also greatly influenced the Labour Court. Examining the passengers from whom higher amount was charged but tickets of lesser amount were issued was not at all not necessary. In any case conductor was free to examine any passenger but he did not do so. The conduct of the conductor at the time of checking and absence of any complaint by other passengers against him were utterly irrelevant facts for deciding as to whether charge leveled against the conductor was proved or not. The Supreme Court in Commissioner of Police, New Delhi Vs. Narender Singh, has held that standard of proof required in departmental proceedings is not same as required in criminal cases Labour Court was also unnecessarily influenced by the fact that earlier no complaint was received against the said conductor.

3. Through interim order dated 12.1.1988 passed in this writ petition operation of the impugned award was stayed on the condition that the petitioner reinstated respondent No. 3 and accordingly respondent No. 3 was reinstated. In this writ petition by order dated 4.4.2006 U.P.S.R.T.C petitioner was directed to enquire as to whether any subsequent proceedings were initiated against respondent No. 2 or not.

4. Learned Counsel for the petitioner has filed supplementary affidavit dated 17.5.2006 in which it has been stated that even after reinstatement petitioner was again found carrying several passengers without ticket on 28.6.2002 and some passengers were issued tickets for shorter distance even though they were charged for the longer distance for which they had boarded the bus. After departmental proceedings respondent No. 3 was again terminated on 21.6.2004 and his representation against the said order was also dismissed on 7.12.2004. Copies of the said orders have been annexed along with supplementary affidavit.

5. In view of the above, I find that the impugned award is erroneous in law and liable to be set-aside.

6. Accordingly writ petition is allowed. Impugned award is quashed.