

(2011) 07 AHC CK 0264

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 3800 of 1998

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

APPELLANT

Vs

Presiding Officer, Labour Court
(IV), Kanpur and Another

RESPONDENT

Date of Decision: July 4, 2011

Acts Referred:

- Uttar Pradesh State Road Transport Corporation Employees (Other than Officers) Service Regulations, 1981 - Regulation 63(4)

Citation: (2011) 131 FLR 81 : (2011) LLR 1236

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 is directed against award dated 8.5.1997 given by Presiding Officer Labour Court (IV) U.P. Kanpur in Adjudication Case No. 387 of 1995 (Annexure-III to the writ petition). The matter which was referred to the Labour Court was as to whether punishment awarded by the petitioner-employer to its workman conductor respondent No. 2, R.P. Chaurasiya through order dated 31.12.1989 was just and valid or not? The punishment awarded was to the effect that workman was reinstated but he was reverted back on the initial pay-scale for three years without any future effect.

3. Earlier the reference had been registered as Adjudication Case No. 13 of 1990 before Industrial Tribunal-IV U.P. Agra. Thereafter it was transferred to Labour Court-IV U.P. Kanpur where it was registered as Adjudication Case No. 387 of 1995. Industrial Tribunal had decided the case ex parte on 11.11.1994 which order was later on set aside (Para-5 of the impugned award).

4. The charge against the workman conductor was that on 3.2.1987 he was found carrying 18 ticket less passengers. In Para-7 of the impugned award, domestic inquiry was held to be fair. The patent defence taken by the respondent-workman conductor was that at the time of checking he was in the process of making tickets and entering them in the way bill. Labour Court held that according to the statement of EW-1, the conductor had taken fare from four persons but had not issued tickets to them. It is mentioned in Para-10 of the impugned award that initially respondent No. 1 was terminated through order dated 1.3.1988, however on appeal punishment was drastically reduced through order dated 31.12.1989.

5. Through the impugned award it was also held that the punishment which was awarded was not permissible by Service Regulations of 1981. Accordingly, award was given in favour of the workman and the punishment order was set aside.

6. First of all, the view of the Labour Court that the punishment awarded was not warranted by the respondents is wrong. Under U.P.S.R.T.C. Employees Service Regulations, 1981, Regulation 63(4) such punishment is permissible. Secondly, if such punishment was not permissible then the punishment of dismissal or removal which was admittedly permissible should have been awarded.

7. The Supreme Court in the following authorities has held that if a conductor is found carrying ticket-less passengers, the only punishment which may be awarded is that of dismissal/ removal.

[North West Karnataka Road Transport Corpn. Vs. H.H. Pujar,](#)

Divisional Manager, Rajasthan S.R.T.C. v. Kamruddin. 2009 (122) FLR 671 (SC)

8. The action of the appellate authority in reducing punishment is severely deprecated. Writ petition is accordingly allowed. Impugned award is set aside.

9. The Court has noticed that in several such cases where conductors are found carrying ticket-less passengers either minor punishment or major punishment other than dismissal/removal is awarded. This is utterly illegal as held by the above authorities of the Supreme Court. In such contingency no other punishment except dismissal/removal can be passed. Chairman U.P.S.R.T.C is directed to issue instructions/circular to all the disciplinary authorities/appellate authorities to the effect that in case conductor is found carrying ticket-less passengers no leniency while awarding punishment shall be shown.