
(2008) 08 AHC CK 0344

Allahabad High Court

Case No: None

Uttar Pradesh State Road
Transport Corporation

APPELLANT

Vs

Man Singh and State of Uttar
Pradesh

RESPONDENT

Date of Decision: Aug. 27, 2008

Citation: (2008) 4 AWC 4130 : (2008) 119 FLR 988

Hon'ble Judges: Rakesh Tiwari, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Rakesh Tiwari, J.

Heard learned Counsel for the parties and perused the record.

2. Respondent No. 1 workman was appointed as driver in the UP. State Road Transport Corporation Agra, in the year 1988. He was issued charge sheet dated 4.5.1988 for causing accident due to rash and negligent driving of the bus. The charge sheet is as under:

dk;kZy; {ks=h; izcU/kd
mRrj izns"k IM+d ifjogu fuxe] vkxjk A

i= la[k;k% vks&3@nq?kZ@34@ 27 93&5212 fnukad 4-5-1994
Jh ekuflag iq= Jh eoklh yky
Pkyd] QkmUM h uxj fMiks A

}kjk lgk;d {ks=h; izcU/kd] Qk0 uxj fMiksA

vkjksi&i=

,rn~ }kjk vkids fo:) fuEufyf[kr vkjksi yxk;s tkrs gS& ;g gS fd fnukad 27-4-93 dks tc vki vkxjk&nsgjknwu ekxZ ij cl la[k;k ;w-ih- 80 bZ&9488 ij pkyu dk;Z dj jgs Fks rks xzke HkSlh ds lehi le; yxHkx 4045 cts vius rhozxfR ,oa ykijokgh ls cl dk pkyu dj ,d HkSlk cqXxh ls cl dks Vdj fn;k A nq?kZVuk ds QyLo:Ik cqXxh es cSBs rhu O;fDr;ks dh ?kVuk LFky ij gh e`R;q gks x;h rFkk ,d yM+dh ?kk;y gks x;h ,oa cqXxh dk HkSlk ej x;k A vki nq?kZVuk ds Ik"pkr cl dks ?kVuk LFky ls Hkxk ys x;s rFkk vkidh cl dks iqfyl }kjk idM+k x;k A fu;ekuqlkj nq?kZVuk ds i"pkr vkidks lwpuk fdLh utnhdh Fkkus rFkk cl LVs"ku ij nsuh pkfg, Fkh] ijUrQ vkids }kjk fu;eks dh vogsyuk dj le; ls fdLh Fkkus ,oa cl LVs"ku ij fdLh vf/kdkjh dks lwpuk ugh nh vkSj ,Q- vkbZ- vkj- ugh dj;k;h x;h A

nq?kZVukxzLr cl dh ejEer esa :0 478-15 iSlS O;; gq, gS A

vr% vki ykijokgh ,oa rhozxfR ls cl dk pkyu djus] nq?kZVuk dj fuxe dks vkfFkZd gkfu igqWapkus] foHkxh; fu;eks dk ikyu u djus] fuxe dh Nfo /kwfey djus ,oa deZpkjh vkpkj lafgrk ds fo:) dk;Z djus ds nks"kh ,oa mRrjn;k;h gSA

lk{; ftu ij vkjksi vk/kkfjr gS&

1- ofj"B dsUnz izHkkjh [krSkyh fMiks dh fjiksZV fnukad 27-4-93 ♦izfr layXu gS♦

2- ofj"B vxztu Qk0 uxj dh fjiksZV] fdLh dk;Z fnol esa dk;kZy; esa ns[kh tk ldrh gS A

vr% vki i= izkfIr ds 15 fnu ds vUnj izR;sd vkjksi es mRrj esa viuk fyf[kr Li"Vhdj.k bl dk;kZy; dks izsf"kr djuk lqfu"pr djs A ;fn iznku fd;s x;s le; ds vUnj vkidk mRrj izkfIr ugh gksrk gS rks ;g vuqeku yxk fy;k tk;sxk fd vkidks vius cpko esa dqN Hkh ugh dguk gS vkSj rn~uqlkj izdj.k esa dk;Zokgh dj nh tk;sxh A

vkidks lkFk gh ;g Hkh funsZ"k fn;s tkrs gS fd vkidks vius cpko ls dksbZ xokg ;k lcwr is"kh djus gS rks e; xokg lcwr ds muds uke irs lfgr bl dk;kZy; dks Hkstuk lqfu"pr djs A

layXud% ,d

{ks=h; izcU/kd

vkxjk A

3. A domestic enquiry was conducted into the charges aforesaid and the Enquiry Officer found that the charges were partially proved against the workman concerned. Thereafter a show cause notice dated 29.9.1988 was issued against him and he was removed from service.

4. The State government having come to the conclusion that an industrial dispute exists referred the following matter of dispute to the Labour Court, UP. Agra where it was registered as Adjudication Case No. 5 of 2000.

D;k Isok;kstdks }kjk vius Jfed ekuflag iq= Jh eoklhyky pkyd dh Isok, fnukad 29-9-98 ls lekIr fd;k tkuk mfpr rFkk @ vFkok oS/kkfud gS\\ ;fn ugh rks lacaf/kr Jfed D;k YkkHk @ fjiyhQ ikus dk vf/kdkjh gS rFkk vU; fdL fooj.k lfgr\\

Before the Labour Court the parties apart from submitting documentary evidence adduced oral evidence also.

A preliminary issue regarding fairness of the domestic enquiry was also framed on the basis of the pleadings of the parties.

5. The Labour Court by its order dated 23.2.2000 came to the conclusion that the domestic enquiry held by the petitioner Corporation was fair and proper. Thereafter the parties were heard on merits of the case. The Labour Court by its award dated 23.2.2000 found that the accident had occurred for the reason that a buffalo cart was going in front of the bus and the head light of the Maruti car was falling on the driving mirror of the bus driver; that the bus was passing by giving signal to the said car but the speed of the car was very high; that seeing the light from both the sides the buffalo of the cart was got disturbed and came in front of the bus on account of which it could not be seen by the workman; that the buffalo cart collided with the bus as a result of which three persons traveling in the buffalo cart died and a girl was seriously injured. The workman took the bus to the Police station Chhapra. The Labour Court after noticing the report of the Enquiry Officer found the charges partially proved and reinstated the workman in service with 50% back wages.

6. The award aforesaid has been assailed on the ground that the findings of the Labour Court are wholly illegal, unwarranted and against the provisions of law and as such it can not be legally sustained; and that it was fully proved from the records that the charges levelled against the employee respondent is correct and as such the order of termination was just and legal but the Labour Court has committed a manifest error of law.

7. It is submitted that once the Labour Court has come to the conclusion that the enquiry was fair and proper the workman concerned could not have been reinstated by the Labour Court.

8. After hearing learned Counsel for the parties and going through the record I find that the defence of the workman concerned that due to full impact of the head beam of a car from the front on his wind screen the left side of the road became blank can not be disbelieved. It is normal while driving a vehicle at night. Whether the accident took place on account of buggy becoming uncontrollable not for any reason directly attributable to the workman concerned is a matter of debate. Neither any witness present on the spot has been produced by the employer before the Labour Court nor has been examined in the enquiry before the Enquiry Officer. Therefore, the Labour Court has rightly found that the charge of rash and negligent driving is not proved against the workman concerned. Even the Enquiry Officer has also found the charge to be partly proved but for the factum of alleged accident due to rash and negligent driving of the workman concerned. Merely because the Labour Court has held the enquiry to be fair and proper would not mean that the Labour Court would not appreciate the evidence. It is settled law that the employer

can justify its action before the Labour Court by giving cogent evidence and in having failed to do so the Labour Court rightly decided the reference on merits. The Labour Court has also considered the enquiry report and found that 50% wages which have not been paid to the workman are reasonable.

9. Enquiry having been held fairly and properly mean only that it has proceeded in accordance with law i.e. to say in accordance with rules and by affording reasonable opportunity to the workman to defend himself on the charges. It does not take away the jurisdiction of the Labour Court to look into the quantum of punishment awarded by the employer. If the punishment is too excessive or shockingly disproportionate to the charge or there is no evidence of misconduct but the employee has been victimized or punishment has not been awarded by the competent authority, the Labour Court has power to interfere in these circumstances which are not exhaustive.

10. For all the reasons stated above, no case for interference is made out. The writ petition is accordingly, dismissed. No order as to costs.