

U.P. State Road Transport Corporation Vs D.K. Mittal and The Presiding Officer, Industrial Tribunal-3

Court: Allahabad High Court

Date of Decision: Sept. 1, 2006

Acts Referred: Uttar Pradesh Industrial Disputes Act, 1947 " Section 4F

Citation: (2006) 111 FLR 505

Hon'ble Judges: Vineet Saran, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Vineet Saran, J.

Respondent No. 1 was appointed as a Conductor in the U.P. State Road Transport Corporation (for short " the

Corporation") in the year 1990 and worked continuously till 29.6.1997. The brief facts of this case are that while the Respondent No. 1 was on

duty as Conductor of Bus No. UP -78N/1401 on Kanpur Delhi route, he was caught red handed by the checking staff and found carrying 42

passenger without tickets. Thereafter the Respondent No. 1 was suspended and a charge sheet dated 7.9.1996 was served on him. After the

domestic enquiry was conducted and the charges leveled against the Respondent No. 1 were found to be proved, he was dismissed from service

order dated 30.6.1997. The departmental appeal filed by the Respondent No. 1 was dismissed on 22.8.1998. Thereafter, the Respondent No. 1

raised an industrial dispute, which was referred by the State Government u/s 4-f of the U.P. Industrial Disputes Act, 1947 for adjudication to

the Industrial Tribunal, Respondent No. 2 and registered as Adjudication case No. 31 of 1999. The Tribunal, vide award dated 30.9.1999, after

quashing the orders dated 30.6.1997 and 22.8.1998, directed reinstatement of the Respondent No. 1 with full back wages with effect from the

date of the reference. Aggrieved by the aforesaid Award, the Corporation has filed this writ petition.

2. I have heard Sri Samir Sharma, learned Counsel for the petitioner as well as Sri H.P. Misra for Respondent No. 1 and have perused the record.

3. The submission of the learned Counsel for the petitioner is that the Award has been passed by the Tribunal without giving any finding of its own

and thus the same is an unreasoned Award, which is liable to be quashed.

4. A perusal of the impugned Award shows that except for narrating the case and the submissions of the parties, the Tribunal has not given any

Finding of its own. In the body of the Award there is no discussion of the arguments but merely statement of the case of the parties and their

submissions have been recorded, and it is only the last paragraph, which is the operative portion of the order, which alone can either be said to be

the opinion or discussion or the finding of the Tribunal. The said paragraph is quoted below:

I have gone through the pleading and documents of the parties and their evidence and heard their argument and I am of the opinion that the

workman concerned is entitled to be reinstated with full back wages w.e.f. 21.1.1999 as the orders dated 30.6.97 and 22.8.1998 respectively

inexpedient issued by the employers.

5. The aforesaid cannot by any stretch of imagination, be called the finding of the Tribunal. The Tribunal, while deciding the reference, has to

discuss the evidence and then arrive at its own finding so that it may be clear as to what was in the mind of the Tribunal because of which it had

come to the conclusion, as may be arrived at in the particular set of facts and circumstances. In this case, there is no discussion of the evidence or

the submissions made by the parties but straightaway the opinion has been expressed by the Tribunal and final order passed. As such the Award

cannot be said to be a reasoned or a considered Award which the Tribunal, while determining the rights of the parties, is obliged to.

6. The Apex Court in the case of Mukand Ltd. Vs. Mukand Staff and Officers" Association, held as follows:

In our view, the material that was placed before the Tribunal was not considered or discussed and that there was, as such, no adjudication by the

Tribunal. The whole award of the Tribunal, in our view, is liable to be set aside on the ground of non-application of mind by the Tribunal to the

material on record.

7. In the case of Regional Manager, U.P.S.R.T.C., Etawah and Others Vs. Hoti Lal and Another, also, the Supreme Court while dealing with a

case where no reasons whatsoever had been indicated as to why the punishment was considered to be disproportionate, set aside the order.

8. In such view of the matter, since the impugned award does not indicate any reason whatsoever for arriving at the conclusion, the same is liable

to be set aside.

9. Accordingly, this writ petition stands allowed and the impugned Award dated 30.9.1999 passed by Respondent No. 2 is hereby quashed. The

matter is remanded back to the Industrial Tribunal, Respondent No. 2, for fresh adjudication in the light of the Observations made hereinabove and

in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of filing of a certified copy of this order

before it. It is agreed between the learned Counsel for the parties that the parties shall appear before the Tribunal, along with a certified copy of

this order, on 18.9.2006. The Tribunal shall thereafter proceed to hear the case and if necessary, on day to day basis without granting any

unnecessary adjournment to either party.

10. No order as to cost.