

Bihar State Road Transport Corporation Vs Sri Ranjit Prasad and Others

Court: Jharkhand High Court

Date of Decision: Jan. 15, 2009

Hon'ble Judges: Narendra Nath Tiwari, J; Ajit Kumar Sinha, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. This letters patent appeal has been preferred against the order dated 24.11.03 passed by learned Single Judge In C.W.J.C No. 2572/1997.

Learned Single Judge has dismissed the said writ petition with a modification in the award dated 8.4.94 of the learned Labour Court, Hazaribagh

holding that the respondent No. 1 shall be entitled to be reinstated In service with only 50% of the back wages instead of reinstatement with full

back wages awarded by learned Labour Court.

2. The respondents were departmentally proceeded against on the charge of negligence. The Imputation in substance was that the respondents,

who were at the ticket counter, had Issued passenger vouchers to the commission agent, though tickets of I, II, & XIII stages were available.

3. The respondents were found guilty of the said charge In the departmental enquiry. They were awarded punishment of dismissal from service.

4. The appellant raised industrial dispute. The said dispute was referred to the Labour Court, Hazaribagh. It was registered as Reference Case

No. 1/1988.

5. Learned Labour Court on conclusion of hearing passed its award directing reinstatement of the respondents with full back wages. It was, inter

alia, observed that though there was some lapse on the part.

6. Being aggrieved by the said award, the Bihar State Road Transport Corporation (appellant herein) preferred aforesaid writ petition being

C.W.J.C No. 2572/1997 before this Court. The same was disposed of by learned Single Judge by the Impugned order dated 24.11.03. Learned

Single Judge modified the award of the wage part from full to 50%. In his order learned Single Judge, Inter alia, noticed that the only charge

against the respondent No. 1 was of negligence/dereliction of duty. They had issued the passenger vouchers instead of tickets. The respondent No.

1, who was a conductor, was given the work of a counter clerk. He had no acquaintance with the nature of work of the counter clerk. He had

followed the same process and performed the duty as was being done by the predecessors-in-office. The punishment of dismissal of the

respondent No. 1 was severe and harsh. Learned Labour Court lightly set aside the said punishment of the respondent No. 1-workman. Learned

Single Judge, however, took the view that since the charge of negligence in duty was established, the interest of justice shall be met by reinstating

the workman-respondent No. 1 in service only with 50% of the back wages In stead of full back wages, as directed by the learned Labour Court.

7. In this appeal the order of the learned Single Judge has been assailed on the ground that once it has been held that there was

negligence/dereliction of duty on the part of the respondent No. 1, the order of punishment of dismissal should not have been interfered with by the

learned Labour Court. Learned Single Judge has also erroneously upheld the said award of the learned Labour Court. He has also found that the

charge of negligence was established against the respondents. Despite the same, learned Single Judge by his impugned order maintained the award

of the Labour Court regarding reinstatement with only modification in the wage part from full to 50% wages, though the award deserved to be set

aside.

8. Mr. P.P.N. Roy, learned Sr. counsel appearing on behalf of the appellant, submitted that learned Single Judge having found that the loss was

caused to the Corporation by the commission agent because the passenger vouchers were issued to him by the respondent No. 1, he should have

held that the respondent negligently performed the duty assigned to him and are guilty of misconduct. Though the amount of loss was only Rs.

1959.40 (about Rupees two thousand), it is the nature of misconduct and not the amount is the factor relevant for awarding punishment for such

misconduct. Learned Counsel referred to and relied upon the decisions of the Hon"ble Apex Court in U.P.S.R.T.C v. Mahendra Nath Tiwari and

Anr. reported in 2006 (1) JLR 31 and North West Karnataka Road Transport Corpn. Vs. H.H. Pujar, . In both the cases, the Supreme Court

has held that in the case where the conductor is found guilty of carrying the ticketless passengers, the punishment of dismissal cannot be said to be

illegal and improper. Learned Counsel submitted that in U.P.S.R.T.C case, supra, the Hon"ble Apex Court did not Interfere with the punishment

of dismissal awarded on the charge of not issuing the tickets even to a single passenger.

9. Mr. S.K. Ughal, learned Counsel appearing on behalf of the respondents, on the other hand, submitted that in the instant case charge against the

workman-respondent No. 1 is not of any dishonesty, rather the charge is negligently performing the duty assigned to him. The respondent No. 1

was the conductor. But he was given the duty of a counter clerk. He was not acquainted with the system. He performed duty in the same manner

in which his predecessor counter clerks were doing. He was not given any training as a counter clerk. There is no allegation of misappropriation or

wrongful financial gain. There is nothing on record to show that he had any intention to cause loss to the Corporation. He further submitted that

learned Labour Court has considered all relevant facts, materials and evidences on record and rightly came to the conclusion that the respondent

No. 1-workman is not guilty of any misconduct and the punishment of dismissal, awarded in the departmental proceeding, is wholly without any

legal justification. Learned Labour Court has, thus, rightly set aside the order of dismissal and directed for reinstatement of the respondent No. 1

with full back wages. Learned Single Judge, however, held that though not intentional, there was some lapse on the part of the respondent No. 1.

He has, thus, modified the said award by allowing only 50% of the back wages.

10. We have heard learned Counsel for the parties and considered the facts and materials on record. On perusal of the impugned order, we find

that learned Single Judge has considered all relevant aspects and the submissions made before him and has come to the conclusion that there is no

infirmity or illegality in the award of the Labour Court. Learned Single Judge has recorded valid reasons for the same. However, learned Single

Judge has concluded that since there was some lapse on the part of the respondent No. 1, he has allowed only 50% of the back wages to the

workman-respondent. We find no infirmity or illegality in the impugned order of the learned Single Judge. The decisions referred to and relied

upon by learned Counsel for the appellant are not applicable to the instant case which has different fact situation. We, therefore, find no merit in

this appeal. This letters patent appeal is, accordingly, dismissed.