

(2012) 07 JH CK 0096

Jharkhand High Court

Case No: Writ Petition (S) No. 6085 of 2004

Madan Pd. Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: July 2, 2012

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2012) 3 JCR 438 : (2012) 4 JLR 496

Hon'ble Judges: Alok Singh, J

Bench: Single Bench

Advocate: Delip Jerath, Abhinash Kumar and Vineet Kumar Vashistha, for the Appellant; Sunil Singh, for the respondent Nos. 2 to 4 and Ram Nivas Roy, GP-III and Ashok Kumar, JC to GP-III, for the State, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Alok Singh, J.

By way of present petition, the petitioner, under Article 226 of the Constitution of India, is assailing order dated 31st August 2004, whereby petitioner was dismissed from the services. Brief fact of the present case is that petitioner was posted as Time Keeper. On 20th April 1988 at Littipada, District-Pakur, Central Flying Squad checked the Bus No. BRL 7627 on Dumka-Pakur route, wherein eight passengers were found without ticket. A charge sheet was issued to the petitioner saying it seems that petitioner, with the collusion of the bus conductor, had allowed the passengers to travel without ticket. After the departmental enquiry, charge against the petitioner was found to be proved and ultimately impugned order was passed dismissing the petitioner from the services.

2. Mr. Delip Jerath, Learned Counsel for the petitioner has vehemently argued that when bus was checked by the- flying squad it was enroute Dumka-Pakur and

conductor was also boarded in the bus. He has further argued that it was the duty of the conductor to issue tickets to the passengers within two kilometers from the place passengers have boarded the bus. He has further argued that time keeper posted at the Bus stand cannot be said to be guilty for non issuance of the tickets by the conductor in the moving bus.

3. Mr. Sunil Singh, Learned Counsel appearing for the Respondents has vehemently argued that it was primary duty of the petitioner to issue ticket from the ticket window before the departure of the bus. Therefore, it cannot be said that it was only the duty of the conductor to issue rickets to the passengers.

4. Having heard the Learned Counsel for the parties and having perused the record, I find that undisputedly bus was checked by the flying squad, while the bus was on the Dumka-Pakur route. There is nothing to suggest that all the eight without ticket passengers have boarded the bus from the bus stand. Even, if it is presumed that all the eight passengers have boarded the bus without ticket from the bus stand, even then, it was the duty of the conductor to check the passengers and issue the tickets to the passengers, who were found to be without ticket. Therefore, entire responsibility seems to be of conductor and petitioner was dismissed from the services without there being any cogent evidence. Mere suspicion, how high may be, should not be made basis for major punishment of dismissal from the services. Therefore, impugned order cannot be sustained in the eyes of law. Consequently, this writ petition is allowed and the impugned order is quashed and petitioner is directed to be reinstated in the service with all consequential benefits, except, the salary for the period he has not worked. However, petitioner shall be paid Rs. 50,000/- lump sum as compensation for the period he has not worked.