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Date: 28/10/2025

Bibhuti Bhusan Dey Vs Deputy Manager, Salt Lake Depot of C.S.T.C.

None

Court: Calcutta High Court

Date of Decision: March 30, 1993

Acts Referred:
Calcutta State Transport Corporation Employees Service Regulations, 1961 â€" Regulation 25

Citation: (1994) 2 ILR (Cal) 413

Hon'ble Judges: Susanta Chatterji, J

Bench: Single Bench

Advocate: Ashok Nath Ghosh and Sudeep Sanyal, for the Appellant; Alok Roy Chowdhury, for the Respondent

Judgement

Susanta Chatterji, J.
The writ Petitioner has challenged the impugned order of removal dated September 5, 1985, made by the

Respondent No. 1, Deputy Manager of C.S.T.C. and for declaration to the effect that the Petitioner is deemed to be in continuous service since

October 21, 1986. It is stated in details that the Respondent No. 1 has acted illegally and arbitrarily in not allowing the Petitioner to join his duties

as conductor on receipt from the Petitioner the certificate of fitness granted by the. Medical Officer, Barasat S.D. Hospital. It is, stated that the

Petitioner was absent due to illness and the chargesheet was issued against him on wrong promises and fictitious allegations.

2. The writ petition is opposed by the Respondent authority by filing affidavit-in-opposition. It is disclosed that show-cause notice No.

1636/SLD/1D.-25/86-87 dated October 21, 1986, was issued against the Petitioner for absenting himself from duty since May 29, 1986,

unauthorisedly and without prior intimation. It is stated that the Petitioner lost his lien in service with effect from September 5, 1986, after having

exhausted leave and extra-ordinary leave as per existing rules and regulations of the Corporation. The Petitioner is alleged to have violated the

provisions of Reg. 25 of Calcutta State Transport Employees Service Regulation. It is contended that the Petitioner was afforded all reasonable

opportunities of hearing and all the charges were proved and the order of removal is justified.

3. The Petitioner has, however, filed an affidavit-in-reply reiterating the points raised in the writ petition and controverting the allegations. Having

heard the learned lawyers of the respective parties at length and upon perusal of the materials on record the Court finds that admittedly the

Petitioner was absent. The Petitioner was charge-sheeted. A departmental proceeding was started. There is nothing wrong or illegality in the notice

to show cause, charge-sheet and the disciplinary proceeding, but this Court is of the view that the order of removal is not commensurate with the

offence as allegedly done by, the Petitioner. Interpretation of Reg. 25 of the Calcutta State Transport Corporation Employees Service Regulation

is not correct in the manner as done in the instant case. The order of removal appears to be excessive and not in conformity with the rules and

regulations. Absence has been explained by the Petitioner and it was beyond his control to join.

4. Considering this aspect the impugned order of removal is set aside. This order will not, however, prevent the Respondent to pass any other

penalty by retaining the service of the Petitioner. No order as to costs.

5. Parties to act on the operative part of this judgment on the usual undertaking.