

Court No. - 5

Case :- WRIT - A No. - 2356 of 1998

Petitioner :- U.P.S.R.T.C. Lucknow

Respondent :- Kailash Narain Srivastava

Counsel for Petitioner :- A.R.Siddiqui, Akhilesh Kumar
Srivastava, Prabhakar Tiwari

Counsel for Respondent :- C.S.C., Brijesh Kumar

Hon'ble Irshad Ali, J.

1. Heard Sri Akhilesh Kumar Srivastava, learned counsel for the petitioner, learned Standing Counsel for the State-respondent and Sri Brijesh Kumar, learned counsel for the respondent.

2. By means of the present writ petition, the petitioner is challenging an award dated 13.10.1997 issued by the Labour Court to the extent it modifies the quantum of punishment awarded to the respondent No.1-employee.

3. The respondent No.1 was Conductor in a bus, which was checked by the checking authorities near police station Raunahi on Lucknow-Faizabad route, in which 13 passengers were found travelling without ticket and 75 Kg luggage was found without booking on 15/16.5.1980. Thereafter, on 10.8.1980, bus in which respondent No.1 was Conductor, was checked by the checking authority on Akbarpur-Tanda route and found that forgery was done by the respondent No.1 in the way bill. On 23.11.1980, the bus in which respondent No.1 was Conductor, was checked up by the authority and found that one passenger was travelling without ticket and found that passengers who were travelling, were having tickets of less distance issued by the respondent No.1. On 19.7.1981, the bus in which the respondent No.1 was the Conductor, was checked by the checking authority and it was found that 16 passengers were travelling without ticket.

4. On the charges, the respondent No.1 was suspended on 29.7.1981. The respondent No.1 provisionally reinstated him subject to final decision vide order dated 30.4.1982. The respondent No.1 was again suspended as he involved himself in corruption in his monetary gain and loss to the corporation on 24.5.1983. The respondent No.1 was removed from service vide order dated 23.8.1983 after receiving enquiry report, in which he was found guilty.

5. The matter was referred to the respondent No.2- Labour Court at the instance of the respondent No.1. On 13.9.1995, preliminary issue was passed by the Labour Court. The Labour Court passed the judgment and award on 13.10.1997, which was published on 15.1.1998 and judgment and award was issued to the petitioner on 27.1.1998, which was received in the office of the petitioner on 5.2.1998.

6. Submission of learned counsel for the petitioner is that once the respondent No.1 was found guilty in the charges of the enquiry officer and he was removed from service, it was not incumbent upon the Labour Court to award lesser punishment to the respondent No.1. Next submission is that once the enquiry officer found the respondent No.1 to be involved in travelling 16 passengers without ticket including 75 Kg luggage without booking, the order of removal is the correct punishment awarded to the respondent No.1. Last submission is that the Labour Court on the wrong premises has come to the conclusion that charges levelled against the respondent No.1 are not proved and has become an enquiry officer to enquire into the allegations, which was found proved by the enquiry officer and on the said basis, he has awarded lesser punishment.

7. On the other hand, learned counsel for the respondent has not challenged the award of the Labour Court which is impugned in the writ petition. He submits that the Labour Court has committed no illegality in passing the award.

8. After having heard the rival submission of learned counsel for the parties, I perused the material on record.

9. On perusal of the award, it is evident that the Labour Court on wrong premises, has held that charges were not found proved against the respondent No.1. In fact, in the enquiry, the charges were fully proved and on the said basis, the disciplinary authority has passed an order of removal against the respondent No.1 without examining the enquiry report, the Labour Court has proceeded to record that charges were not found proved, therefore, awarded lesser punishment to the respondent No.1, which is not factually correct. The assumption drawn by the Labour Court is erroneous in nature and without recording cogent reasons.

10. The Labour Court on incorrect assumption, has held that removal from service of the respondent No.1, is illegal and rejected the same and directed for reinstatement in service with the order that he is entitled to get payment of 10% interest. The award of the Labour Court is not sustainable in the eyes of law. Once the respondent No.1 was found travelling 16 passengers

without ticket and 75 Kg luggage without booking, the order of removal passed against him on 23.8.1983 is the valid order and does not suffer from any infirmity or illegality.

11. In view of the reasons recorded above, the writ petition succeeds and is **allowed**. The impugned order/ award dated 13.10.1997 is hereby quashed.

Order Date :- 31.10.2023

Gautam