



2026:AHC:195468

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 25886 of 2020

Uttar Pradesh State road Transport Corporation Petitioner(s)

Versus

Sri Ram Bahadur and another Respondents(s)

Counsel for Petitioners(s)	: Sunil Kumar Misra, U.S. Singh Visen
Counsel for Respondent(s)	: C.S.C., Jamal Ahmad Khan

Court No. - 36

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Heard Sri Ayush Mishra, learned Standing Counsel for petitioner and Sri Jamal Ahmad Khan, learned counsel for contesting respondent.
2. Petitioner- Uttar Pradesh State Road Transport Corporation, has filed present writ petition being aggrieved by award dated 19.02.2020 passed by Presiding Officer, Labour Court, U.P. Agra whereby a reference that, whether service of contesting-respondent terminated vide order dated 29.09.2012 was legally valid or not, was considered and allowed and it was held that order of termination was bad in law and it was directed that workman will be entitled for reinstatement with entire back wages.

3. Learned counsel for petitioner submits that once the Labour Court has come to a conclusion that domestic inquiry was fair, it has exceeded its jurisdiction by considering evidence on record to the extent that termination was absolutely irregular and illegal and without taking note that there was no affidavit on record, whether or not contesting-respondent was gainfully employed between the period when proceedings were pending, i.e., between 2014 to 2020, i.e., for 6 years as well as that reference was made after more than two years.

4. Per contra, learned counsel for contesting-respondent submits that even after Labour Court has come to conclusion that domestic inquiry was fair, it can consider whether evidence led during domestic inquiry was sufficient or not to prove charges and same exercise was undertaken by Labour Court. He placed reliance on a judgment passed by this Court in the case of **Regional Manager U.P. State Road Transport Corporation and another vs. Prabhu Dayal and another, 2021:AHC:126104**.

5. I have considered aforesaid submissions and perused the material on record.

6. In the present case, this Court has passed following interim order on 06.01.2021:

“Heard learned counsel appearing for the petitioner and Sri Jamal Ahmad Khan, learned counsel for respondent no. 1.

Controversy involved in this case is on account of absence of employee - respondent no.1 from duty, therefore, his services were terminated and the same has been put to challenge by the petitioner - UPSRTC on several counts.

Learned counsel for respondent no.1 prays for and is granted four weeks time to file counter affidavit.

Rejoinder affidavit, if any, be filed within two weeks thereafter.

List on expiry of the aforesaid period.

Till the next date of listing, effect and operation of the impugned order dated 19.02.2020 passed by respondent no.2, Presiding Officer, Labour Court, U.P. Agra, in Case No.31 of 2014 shall remain stayed provided the petitioner - UPSRTC deposits 40% of the entire amount of the back wages in the bank account of respondent no.1, which shall be subject to final outcome of the instant petition.”

7. It is informed that in pursuance of above interim order, 40% of entire amount of back wages has already been deposited which is around Rs. 9 lacs.

8. Contesting-respondent has declared his age in February, 2022 about 57 years, therefore, he has already crossed age of superannuation. Accordingly, even if the award is held to be justified, contesting-respondent cannot be re-appointed and the only relief which could be granted to contesting-respondent would a one time lump sum compensation and for that the Court takes note that contesting-respondent has worked from 1989 to 2012 as a Driver with petitioner.

9. So far as merit is concerned, Court finds that in view of a judgment passed by Supreme Court in the case of **Workmen of M/s Firestone Tyre & Rubber Co. of India (P) Ltd. vs. Management and others, 1973(1) SCC 813**, the Tribunal was justified to consider the evidence on record, whether misconduct and punishment granted were justified on basis of material on record.

10. I have carefully perused the impugned award and relevant part of it is mentioned hereinafter:

“16. साक्ष्यों से यह भी सुस्पष्ट है कि वादी चालक को वाहन संचालन के लिए ड्यूटी इसलिए नहीं दी गयी, क्योंकि चिकित्सक द्वारा उसे वाहन चलाने के लिए अयोग्य घोषित कर दिया था। इस तथ्य से विभाग के अधिकारी परिचित थे, लेकिन वादी अन्य किसी ड्यूटी की मांग करता रहा, जिसे देने का अधिकार विभाग को था। वादी अपनी ड्यूटी, आंखों की गम्भीर बीमारी के कारण, इलाज में व्यस्त होने तथा विभाग द्वारा उसे इलाज के बाद ड्यूटी देने के आश्वासन के कारण नहीं कर सका, इसकी उचित सूचना उसके द्वारा अपने अधिकारियों को दी जाती रही। दूसरा तथ्य कि वाहन संचालन में चिकित्सीय रूप से अयोग्य हो जाने के कारण उसे ड्यूटी नहीं दी गयी। इसके लिए वादी जिम्मेदार नहीं माना जा सकता। अनुचित अनुपस्थिति अकारण मानी जा सकती है, लेकिन ससाक्ष्य सकारण

अनुपस्थिति कोई आरोप नहीं है। वादी पर लगाया गया आरोप अनुचित एवं कर्मचारी नियमावली के नियमों के विरुद्ध है। आरोप पत्र में वादी को जनवरी 2009 से दिसम्बर 2009 तक अनधिकृत रूप से अनुपस्थित का आरोप है। जबकि वाहन निर्धारण अधिकारी ने अपनी पहली रिपोर्ट स्वेच्छा से दि० 29.06.2011 को 28 माह के बाद देने का क्या औचित्य है। वादी द्वारा जांच कार्यवाही में पूछने पर सम्बन्धित अधिकारी द्वारा बताया गया कि "रिपोर्ट देना मेरे क्षेत्राधिकार में है, मैं सुपरवाइजर हूँ रिपोर्ट भेजने का उसका अधिकार है----" इस उत्तर से यह साबित होता है कि सम्बन्धित अधिकारी की मनमानी है कि वह चाहे एक महीने बाद रिपोर्ट भेजे या दो वर्ष बाद। वाहन निर्धारण अधिकारी के क्षेत्राधिकार व सुपरवाइजरी कार्य पर विभाग का कोई नियंत्रण नहीं है। सुपरवाइजर का कार्य नियम विरुद्ध भेदभावपूर्ण है, जिसके कारण वादी पर गलत आरोप लगाये गये तथा अनुचित रूप से उसकी सेवाएं समाप्त की गयी। वादी की सेवाएं भेदभाव पूर्ण आरोपों व मनमानी रिपोर्ट पर समाप्त किया जाना अनुचित एवं अवैधानिक है। वादी सवेतन, उसी पद के वेतनमान पर सेवा समाप्ति की तिथि दि० 29.09.2012 से समस्त हितलाभ के जो उसे निरन्तर सेवा में प्राप्त होते, के अधिकार पाने का अधिकारी है। चिकित्सीय आधार पर यदि वाहन संचालन में अयोग्य हो जाने के कारण उसे उसकी योग्यता के अनुसार अन्य कार्य प्रदान किया जाना विभागीय दायित्व है।

17 अतः पत्रावली पर उपलब्ध तथ्यों, अभिवचनों, साक्ष्यों, तथा विवेचना के आधार पर मैं इस निष्कर्ष पर पहुंचता हूँ कि राज्य सरकार द्वारा भेजा गया सन्दर्भोद्देश कि "क्या सेवायोजक पक्ष द्वारा श्रमिक श्री राम बहादुर पुत्र श्री सुखराम (चालक) की सेवायें दिनांक 29.09.2012 से समाप्त किया जाना उचित एवं वैधानिक है? यदि नहीं, तो सम्बन्धित श्रमिक क्या लाभ / रिलीफ पाने का अधिकारी है तथा अन्य किस विवरण सहित?" के सम्बन्ध में श्रमिक श्री राम बहादुर पुत्र श्री सुखराम (चालक) की सेवायें दिनांक 29.09.2012 से की गयी सेवा समाप्ति अनुचित एवं अवैधानिक है। प्रतिवादी सेवायोजक श्री राम बहादुर पुत्र श्री सुखराम को सेवा की तारतम्यता के साथ पुनर्स्थापित / बहाल करें। चूंकि श्रमिक श्री राम बहादुर पुत्र श्री सुखराम द्वारा दाखिल मेडिकल रिपोर्ट से यह तथ्य साबित होते हैं कि वादी आँखों की बीमारी के कारण वाहन संचालन (चालक) का कार्य करने में असमर्थ है। अतः क्षमताओं के अनुसार उसी वेतनमान पर विभागीय कार्य प्रदान करना सुनिश्चित करें। जहां तक बेकारी अवधि के मद में वेतन मांगने का प्रश्न है वर्णित परिस्थितियों में श्रमिक श्री राम बहादुर सेवा समाप्ति की तिथि 29.09.2012 से बेकारी अवधि का सम्पूर्ण वेतन, भत्ते व अन्य हितलाभ उसी तरह पाने का अधिकारी है, जैसा कि वह सेवा में रहते हुए पाता। सेवायोजक पक्ष अधिनिर्णय प्रकाशन के दिनांक से दो माह के अन्दर श्री राम बहादुर पुत्र श्री सुखराम को भुगतान करना सुनिश्चित करे। ऐसा न करने की दशा में वादी श्री राम बहादुर पुत्र श्री सुखराम देय सभी धनराशियों पर अधिनिर्णय प्रकाशन के दिनांक से वास्तविक भुगतान की तिथि तक 10 प्रतिशत ब्याज पाने के अधिकारी होंगे।"

11. Contesting-respondent was declared unfit to undertake the work of a Driver due to medical problems as his eyes were infected with a serious disease and since he was not granted any other job by petitioner, the reason for unauthorized absence from January, 2009 to December, 2009 was found not proved, though no specific finding was returned that even when contesting-respondent was not given alternative job, whether he can still remain absent since it

could not be a reason for even not reporting for duty. There is no discussion on said aspect of case. Therefore, a finding that petitioner was absent due to certain reason, cannot be accepted. Contesting-respondent was not on any medical leave or any other extraordinary leave was granted.

12. Otherwise also, it is well settled position of law that an order of reinstatement would not accompanied with an order of full back wages in a routine manner and for that the Court takes note of a judgment passed by Supreme Court in the case of **Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota vs Mohan Lal**, (2013) 14 SCC 543 as well as **State of Uttar Pradesh vs. Krishna Murari Sharma**, 2025 INSC 1500.

13. In view of above, it is evident that contesting-respondent has worked from 1989 to 2012 and there is no much dispute about his medical problem and even it is considered that charges were not proved, though the Court has already discussed that finding returned in award was not absolutely correct, there cannot be an order of full back wages as well as contesting-respondent cannot be reinstated now and that 40% of back wages has already been deposited, which is about Rs. 9 lacs.

14. In aforesaid circumstances, in the interest of justice and taking note of a judgment passed by Supreme Court in the case of **State of Uttar Pradesh vs. Krishna Murari Sharma (supra)**, impugned award is modified to the extent that contesting-respondent shall be paid a one time lump sum compensation and since Rs. 9 lacs has already been deposited, the Court considers that it would be a reasonable and sufficient amount in given set of circumstances.

15. A prayer of learned counsel for contesting-respondent that one time lump sum amount be increased to the extent of 50% of

back wages, is not justified in given circumstances specifically in the light of discussion made by this Court in preceding paragraphs.

16. Contesting-respondent will be at liberty to file an application for release of aforesaid amount of Rs. 9 lacs in his favour.

17. With aforesaid observation, direction and liberty this writ petition is disposed of.

September 16, 2026
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(Saurabh Shyam Shamshery,J.)