

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no. 27423 of 2013(O&M)

Date of Decision : 12.02.2015

Arvind Narang

....Petitioners

Versus

Presiding Officer, Industrial Tribunal Amritsar and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

- 1)Whether reporters of local newspapers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

Present : Mr.Amarjit Singh , Advocate for the petitioner

Mr. Harkesh Manuja, Addl. AG, Punjab

MAHESH GROVER, J.

The petitioner is the legal representative of one Sh.Kishan Chand, the employee of Punjab Roadways. While working as a Conductor and performing his duties on a particular route the bus was checked on 4.11.1993 and the deceased employee (hereinafter referred to as the 'workman) was found in possession of old used tickets of an amount of Rs.5049.25/-. Though these tickets were in his possession no material was established to indicate its mis-use, as all the passengers sitting in the bus were having valid tickets.

The workman was charge sheeted for grave mis-conduct of having in his possession these used tickets leading to an inference of his intention to use the same. The inquiry officer concluded against the petitioner and an order dismissing him from service was passed by the Divisional Manager, Punjab Roadways, Chandigarh Division.

The workman challenged the action of dismissal by raising an industrial dispute but the Labour Court vide the impugned award dated 4.7.2013 upheld the dismissal of the workman from service on the reasoning that since no process of law or procedure had been violated and the workman failing to establish any prejudice on this count, yet the possession of tickets indicated a habitual abuse of re-collecting tickets after the passengers disembarked the bus.

Learned counsel for the petitioner with reference to the impugned order contends that merely because the workman was in possession of used tickets would not ipso facto imply and establish the misconduct on the part of the workman.

Learned counsel for the respondent on the other hand would raise a submission that unexplained possession of such used tickets would certainly indicate the intention of the workman to utilize the same so as to cause loss to the exchequer.

I have heard learned counsel for the parties and have perused the material on record. The petitioner has not been able to establish any procedural irregularity leading to the dismissal of the workman. It is evident from the record that adequate opportunities were given to the workman in this regard. The only factor that remains to be determined is the justification of dismissal on account of the alleged misconduct of the petitioner. The material on record indicates that the workman was in possession of used tickets but at the same time there is also material to indicate that none of the passengers were found to be in possession of invalid tickets at the time of checking. If that be so then the respondents would not be right in taking liberty of deducing a fact merely on

conjectures. Even though, strict level of proof may not be a necessity in departmental proceedings yet these would still not be permitted to be exposed to ambiguous reasonings to conclude to the detriment of a person whose employment is at stake. Assuming such an inference was possible then also the extreme penalty of dismissal from service would be unduly harsh, considering the alleged mis-conduct existed in the realm of doubt only.

Thus in the considered view of this Court the respondents erred in dismissing the workman from service while the Tribunal went wrong in ignoring these factors which ought to have been taken into consideration as a Court of law is expected to base its findings on sustainable reasons. The Tribunal as a Court could not have taken the liberty of deriving such an inference as it is bound by the dictates of legitimate and reasonable proof.

Finding the award to be erroneous, same is set aside with a observation that the workman could not have been dismissed from service on presumptive material.

The writ petition is accepted and the respondents are directed to grant the notional reinstatement to the workman and grant him all consequential benefits by treating him to be a regular employee entitled to all service benefits till the date of his death.

February 12, 2015
rekha

(MAHESH GROVER)
JUDGE