

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA-880 of 2015 (O&M)

Date of decision : 31.07.2015

Bhupinder Singh

.....Appellant

Vs.

Union Territory, Chandigarh and Others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE S.S.SARON
HON'BLE MR.JUSTICE RAMENDRA JAIN**

Present:- Mr.Malkeet Singh, Advocate for the Appellant.

RAMENDRA JAIN, J.,

This appeal has been filed by workman against the order and judgment dated 27.01.2014 passed by learned Single Judge in CWP No.23523 of 2013. He was appointed as Conductor with the Chandigarh Transport Undertaking and remained working as such till his dismissal from service. During his service tenure, he committed following illegalities and irregularities causing loss to the State exchequer by his wilful default and committing fraud :

- (1) On 22.09.2001, he as a Conductor in Bus No.CH01-G-5381, en-route No.118 from Hazipur to Talawara charged Rs.5/- from a passenger, but did not issue ticket to him.
- (2) On 17.11.2001, he charged Rs.16/- each from two passengers i.e. total Rs.32/-travelling from Jalandhar to Beas, but did not issue them any ticket.
- (3) On 18.11.2001 he in all committed 7 cheatings and fraud, besides and one gross mis-conduct i.e. total eight

following 8 illegalities and irregularities i.e.

- (i) He charged Rs.5/- each from 17 passengers i.e. total Rs.85/- travelling from Dina Nagar to Gurdaspur, but did not issue them any ticket.
- (ii) He charged Rs.28/- each from 3 passengers i.e. total Rs.84/-, travelling from Pathankot to Batala, but did not issue them any ticket.
- (iii) He charged Rs.60/- each from 2 passengers i.e. total Rs.120/-, travelling from Phagwara to Chandigarh but did not issue them any ticket.
- (iv) He charged Rs.10/- each from 5 passengers i.e. total Rs.50/-, travelling from Ludhiana to Katni, but did not issue them any tickets.
- (v) He charged Rs.14/- each from 15 passengers i.e. total Rs.210/-, travelling from Ludhiana to Samrala but did not issue them any ticket.
- (vi) He charged Rs.25/- each from 8 passengers i.e. total Rs.200/-, travelling from Ludhiana to Morinda, but did not issue them any tickets.
- (vii) He charged Rs.43/- each from 22 passengers i.e. total Rs.946/-, travelling from Ludhiana to Chandigarh but did not issue them any tickets.
- (viii) On the same day on checking, he was found consuming liquor on duty with his colleague Kirpal Singh by parking his bus at local bus stand.

DDR No.13 dated 18.11.2001 was lodged against him at Police

Post, ISBT, Sector 17, Chandigarh. On medical examination, he was found under the influence of liquor by the doctor. He had refused to give blood and urine samples. Accordingly, he was charge-sheeted vide charge-sheet dated 13.02.2002. During inquiry, he admitted his guilt, therefore, Inquiry Officer submitted his report holding him guilty of the aforesaid charges.

The appellant-workman was afforded several opportunities of personal hearing, but he did not turn up. Hence, finding no other option his services were terminated with immediate effect vide order dated 02.11.2004.

Thereafter, the appellant-workman filed appeal before the Appellate Authority which also resulted into dismissal vide order dated 08.05.2006. He, then raised a demand notice under Section 2-A of the Industrial Disputes Act, 1947. The same was referred to the Industrial Tribunal-cum-Labour Court by the Govt. for adjudication. Learned labour Court framed the issue "whether the services of the appellant-workman were terminated illegally by the management, if so, to what effect and to what relief the workman is entitled to, if any?"

After giving due opportunity of hearing to the parties, learned labour Court answered the reference against the appellant-workman. His dismissal from service was declared legal and valid vide award dated 21.01.2013. Aggrieved with the same, he preferred CWP No.23523 of 2013, which too was dismissed by the learned Single Judge vide impugned order dated 27.01.2014 after fully considering the matter in dispute in detail.

Alongwith the appeal, the workman has filed CM No.1839-40-LPA of 2015 for condonation of 102 days' delay in re-filing and CM No.1840-LPA of 2015 for condonation of 273 days' delay in filing it.

Learned counsel for the appellant-workman argued that the impugned order dated 27.01.2014 passed by the learned Single Judge is patently illegal being contrary to the settled law. The Learned Single Judge has committed a grave error in not setting aside the impugned award of the learned Industrial Tribunal, U.T.Chandigarh. The learned Labour Court has also erred in not appreciating the fact that the appellant was not afforded proper opportunity of hearing during the departmental inquiry and before imposing the penalty of his dismissal from services. Even otherwise, awarding of major penalty to the appellant of dismissal of his services was disproportionate to the length of his unblemished service career, because the alleged embezzled amount of Rs.1526/- was very small.

We have given our thoughtful consideration to the matter.

The appellant was found committing various above irregularities and illegalities by five different inspection teams headed by different Inspectors. His misconduct on 22.09.2001, of charging Rs.5/- from a passenger travelling from Hazipur to Talwara and not issuing any ticket to him was caught by the team consisting of Inspectors Sh.Varyam Singh, Sh.Jagir Singh and Sh.Balbir Singh-II.

The offence committed by him on 17.11.2001 of charging Rs.16/- each from two passengers i.e. total Rs.32/- from Jalandhar to Beas and not issuing tickets to them was caught by the team consisting of Inspectors Sh.Dharam Pal and Sh.Lakhbir Singh.

The offence committed by him on 18.11.2001 of charging Rs.5/- each from 17 passengers i.e. total Rs.85/- travelling from Dina Nagar to Gurdaspur, charging Rs.28/- each from 3 passengers i.e. total Rs.84/- travelling from Pathankot to Batala, and not issuing any tickets to them was caught by the team consisting of Inspectors Sh.Mohinder Singh Atwal, Sh.Gulzar Singh and Sh.Basdev at Gurdaspur. On the same day, (i) charging of Rs.60/- each from 2 passengers i.e. total Rs.120/- travelling from Phagwara to Chandigarh, (ii) charging of Rs.10/- each from 5 passengers i.e. total Rs.50/- travelling from Ludhiana to Katni (iii) charging of Rs.14/- each from 15 passengers i.e. total Rs.210/-travelling from Ludhiana to Samrala (iv)charging of Rs.25/- each from 8 passengers i.e. total Rs.200/- travelling from Ludhiana to Morinda (v) charging of Rs.43/- each from 22 passengers i.e. total Rs.946/- travelling from Ludhiana to Chandigarh and not issuing tickets to any one of them, was detected by the checking team consisting of Inspectors Tarsem Lal Saini, Pisora Singh and Waryam Singh. On the same day on checking, the appellant-workman was found consuming liquor on duty with his colleague Kirpal Singh by parking his bus at local bus stand, by the duty Inspector Sh.Mohan Lal and Sub-Inspector Malkeet Sigh.

From the above facts, it is evident that the appellant was found causing loss to the State exchequer by not issuing tickets to the passengers on several occasions though had charged money from them. Since, he was apprehended by five different checking teams for his above misconduct, therefore, it is well proved on the record that he was a habitual offender and thus did not deserve any leniency.

That apart, it has been observed by learned trial Court as well as learned Single Judge that appellant was also charge-sheeted on two occasions i.e. on 19.02.2002 and 16.01.2013 for defrauding the Government.

More so, learned counsel for the appellant has miserably failed to show any illegality or perversity in the Award of the learned Labour Court or in the impugned judgment passed by learned Single Judge. By placing reliance upon ***Uttaranchal Transport Corporation Vs. Sanjay Kumar Nautiyal 2008(2)SCT 174, Divisional Manager, Rajasthan S.R.T.C. Vs. Kamruddin 2009(7) SCC 552*** and ***Karnataka Bank Ltd. Vs. A.L.Mohan Rao 2006 (1) SCC 63*** the learned Single Judge has rightly dismissed the writ petition of the appellant finding no merit in it. The submission of learned counsel for the appellant that the dismissal of the appellant from service is disproportionate to his misconduct has also been considered and rejected by the learned Single Judge.

We find no infirmity with the impugned order and consequently, the appeal is dismissed.

Since the appeal has been dismissed on merits, the question regarding condonation of delay in filing and in re-filing the appeal, are only academic, therefore, the applications seeking condonation of delay in this respect, are also dismissed.

(S.S.SARON)
JUDGE

(RAMENDRA JAIN)
JUDGE

31.07.2015
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