

HIGH COURT OF CHHATTISGARH, BILASPUR
WPL No.6658 of 2007

Chandra Bhushan Shukla S/o Lalata Prasad Shukla, Aged about 32 years, Ex-Conductor, M.P.S.R.T.C., Depot No.2, Raipur now C.I.D.C., Raipur (CG)

---- Petitioner

Versus

1. Managing Director, Chhattisgarh Infrastructure Development Corporation, Shastri Chowk, Raipur
2. Managing Director, M.P. Road Transport Corporation, Head Office, Habib Ganj, Bhopal (M.P.)
3. Presiding Officer, State Industrial Court, Raipur

---- Respondents

For Petitioner	:	Mr.Amiyakant Tiwari, Advocate
For Respondent No.1	:	Mr.R.N.Pusty, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

15/03/2018

1. The petitioner was conductor in the erstwhile Madhya Pradesh State Road Transport Corporation (hereinafter called as "MPSRTC"). On 7.10.1995 he was found carrying 9 passengers along with other passengers in the bus from Nagri to Dhamtari and also issued tickets to them for Nagri, but did not mention the same in collection sheet. Pursuant to surprise inspection made by the officers of MPSRTC, he was subjected to departmental proceedings and was terminated from service on 15.5.1996. The said order was challenged by the petitioner herein before the Labour Court under Section 31(3) of the Chhattisgarh Industrial Relations Act, 1960. The Labour Court held the domestic enquiry to be illegal, which was reversed by the Industrial Court and opportunity of hearing was granted to the MPSRTC to lead

evidence. The MPSRTC led evidence and ultimately, upon conclusion of enquiry, the Labour Court held that misconduct is not proved and thus, the petitioner is entitled for reinstatement without back wages. In an appeal preferred by the MPSRTC/CIDC before the Industrial Court, the Industrial Court interfered with the matter and set aside the order of the Labour Court. Feeling aggrieved and dissatisfied with the order of the Industrial Court, this writ petition has been preferred by the petitioner herein.

2. Mr.Amiyakant Tiwari, learned counsel for the petitioner would submit that the impugned order is unsustainable and bad in law.
3. On the other hand, Mr.R.N.Pusty, learned counsel for respondent No.1 would support the impugned order.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the records with utmost circumspection.
5. It is true that on the date of inspection, the petitioner issued tickets to 9 passengers allowing them to travel from Nagri to Dhamtari, but did not mention in the collection sheet the place where they had to get down from the bus and also did not mention the exact amount collected from the said passengers in the said collection sheet and that has constituted subject-matter of domestic enquiry and on that count, he has been dismissed from service. It is not the case that the petitioner has allowed the passengers to travel ticketless, he issued tickets to them and tickets have also been filed as Ex.D/14 before the Labour Court and the only misconduct

alleged to have been committed is not recording the place of getting down from the bus and also not recording the amount received from them, because as per the MPSRTC Rules and regulations, the petitioner was required to mention the same in the collection sheet.

6. According to Mr.Pusty, it is covered under Rule 12 (b) and (d) of the Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1963 (hereinafter referred to as "Standing orders) which states as under:-

"12. Disciplinary action for misconduct.-(1) The following acts or omissions on the part of an employee shall amount to a major misconduct:

(b) theft, fraud or dishonesty in connection with the business or property of the undertaking :

(d) wilful disobedience of any lawful or reasonable order of a superior involving safety of any person or property or other matter having an adverse effect upon the work or wages of other employees:"

7. The petitioner has certainly not recorded the amount of fare collected from 9 passengers in collection sheet as well as the place where they had to get down from the bus and that would cover under Rule 12 (1) (d) of the Standing Orders, but for the said misconduct, punishment of dismissal from service, in the considered opinion of this Court, is on higher side. It may amount to negligence in performance of duty as observed by the Labour Court, but that certainly cannot be said to be major misconduct warranting inflicting of punishment of dismissal from service. The Labour Court has rightly held the petitioner to be negligent in

performance of duty, which could not have been interfered with by the Industrial Court in the appellate jurisdiction without meeting with the reasonings recorded by the Labour Court.

8. As a fallout and consequence of the above-stated discussion, the impugned order passed by the Industrial Court is set aside and that of the order of the Labour Court is hereby restored subject to the direction that the disciplinary authority would consider to impose appropriate punishment upon the petitioner except major punishment within a period of three months from the date of receipt/production of a copy of this order, subject to any other case pending against the petitioner.
9. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-