

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WP No. 3758 of 2005**

- Suresh Prasad Gautam son of Y.P. Gautam, aged about 43 years, R/o Itma Nadi Teer, Tahsil Amarpatan, District Satna (MP)

---- Petitioner**Versus**

1. The State Of Chhattisgarh, through the Chief General Manager, Chhattisgarh Infra Structure, Raipur (C.G.)
2. Chhattisgarh Adhosanrachana Vikas Nigam (Transport Cell) Local Office Korba, through its Agar Manager Korba.

---- Respondents

For Petitioner	:-	Shri Awadh Tripathi and Shri Vinod Deshmukh, Advocate.
For Respondent-State	:-	Shri Rajendra Tripathi, PL
For Respondent No.2	:-	Shri Anup Majumdar and Shri Saket Pandey, Advocate.

Order On Board By**Hon'ble Shri Justice Prashant Kumar Mishra**

29/08/2019

1. Heard.
2. Petitioner would call in question the illegality and validity of the order of termination dated 03.06.2005 which is in compliance of the Appellate order passed by the Industrial Court, Jabalpur on 09.01.1998 which in turn was against the order passed by the Labour Court on 01.12.1986 by which the petitioner was reinstated in service without backwages.
3. Petitioner was appointed as Conductor in the erstwhile M.P. State Road Transport Corporation (in short "MPSRTC") on 08.12.1983. At the relevant time he was posted in Satna Depot. On allegation of misconduct, as the petitioner was found carrying 18 passengers without ticket when his vehicle was intercepted and checked on 29.06.1984, he was subjected to a departmental enquiry in which the charges were proved. In the Industrial dispute raised by the petitioner, the Labour Court found the misconduct proved but directed his reinstatement without backwages vide order dated 01.12.1986 for the reason that the punishment is too harsh and disproportionate to the nature of misconduct.
4. The management of MPSRTC preferred appeal challenging the order of reinstatement where as the petitioner preferred an appeal challenging denial of backwages. Both the

appeals were disposed of by the impugned order Annexure P-1 passed by the Industrial Court, Jabalpur on 09.01.1998. The Industrial Court has allowed the appeal preferred by the MPSRTC and has dismissed the appeal preferred by the workman. The Industrial Court has held that the petitioner having been found to commit misconduct by allowing 18 passengers to travel without ticket, the same is serious misconduct which entails punishment of removal from service and the Labour Court has committed illegality by holding the punishment to be disproportionate.

5. Shri Awadh Tripathi and Shri Vinod Deshmukh, learned counsel for the petitioner would refer to a judgment rendered by Division Bench of this Court in the matter of **Steel Authority of India Limited Vs. Shankar Ram and Anr.** decided on 25.03.2019 in Writ Appeal No. 177 of 2018 to argue that when the Labour Court has assigned valid reasons for interfering with the quantum of punishment it is not open for the Industrial Court to set-aside the order passed by the Labour Court. Thus, the impugned order being without jurisdiction, the same deserves to be set-aside.
6. Per contra Shri Rajendra Tripathi, learned State counsel and Shri Anup Majumdar with Shri Saket Pandey, learned counsel for the respondent No. 2, would submit that in a

case where the Conductor has been found to commit misconduct by allowing passengers to travel without ticket, the misconduct is so grave that it entails punishment of termination from service and the Labour Court has wrongly interfered with the quantum of punishment. They would refer to the decisions rendered by the Supreme Court in (2006) Vol 8 SCC 108 in the matter of **U.P. State Road Transport Corporation, Dehradun Vs. Suresh Pal**, (2006) Vol 6 SCC 325 in the matter of **Amrit Vanaspati Co. Ltd. Vs. Khem Chand & Anr.** and (2006) Vol 06 SCC 548 in the matter of **Anand Regional Coop. Oil Seedsgrowers' Union Ltd. Vs. Shaileshkumar Harshadbhai Shah**.

7. Having heard learned counsel for the parties, it appears that the law is well settled by the Supreme Court in the matter of UPSRTC (Supra) that the Conductor of a Road Transport Corporation carrying bus with many passengers without ticket would commit serious misconduct in the first year of service, therefore, the same has to be dealt with an iron hand and non-lenient punishment of dismissal inflicted upon the delinquent Conductor ought not to have been interfered by the High Court under writ jurisdiction.
8. In the case at hand also the Labour Court as well as the Industrial Court have found that the bus in which the petitioner was working as the Conductor was found to carry

20 passengers without ticket. This concurrent finding is not shown to be perverse by the petitioner. Once such misconduct is committed, in view of the law laid down by the Supreme Court in the matter of UPSRTC (Supra), the same would amount to a serious misconduct and the Industrial Court has rightly interfered with the order passed by the Labour Court where the order of dismissal from service was set-aside without backwages.

9. The matter in issue appears to be covered by the Supreme Court judgment in the matter of UPSRTC (Supra). Accordingly, no case for interference is made out.
10. In the result, the Writ Petition is dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

Ayushi