

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2398 of 1985

Date of decision: 28-11-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

G S R T C

Versus

STATE TRANSPORT WORKERS UNION

Appearance:

MR S. M. Mazgaonkar for Petitioner

MR H. K. Rathod for Respondent No. 1

CORAM : MR. JUSTICE S. K. KESHOTE

Date of decision: 28/11/97

ORAL JUDGEMENT

This petition was ordered to be heard finally with special civil application No.327 of 1985. That petition has already been decided by this court as per office report.

Challenge has been made by the petitioner by this special civil application to the order of the industrial tribunal dated 26th November, 1984 under which reference filed by the respondents was partly allowed and the penalty of withholding of three grade increments permanently was substituted by the penalty of withholding of one increment permanently.

2. Learned counsel for the petitioner contended that the award of the Industrial Tribunal was wholly perverse. It has next been contended that the presiding officer proceeded on the footing that some relief has to be granted to the workman which is only misconception of law. On the other hand the counsel for the respondent supported the order passed by the Industrial Tribunal.

3. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties. I find some merit in the contention raised by the learned counsel for the petitioner. It is a case where respondent workman, a conductor of the Corporation, was charged with serious misconduct of collecting money from the passengers and not issuing tickets. That misconduct was found proved against the respondent workman and penalty of withholding of three increments with permanent effect was imposed. The Industrial Tribunal accepted the fact that the respondent workman has committed serious misconduct, and accordingly the finding holding him guilty of the misconduct was held to be correct. Thereafter the Tribunal has proceeded to consider the question as regards to punishment. While dealing with this question the Tribunal has recorded categorical finding, "having regard to the facts as above, I do not think that the punishment awarded is in any way severe one". So the Industrial Tribunal has not considered the punishment of withholding of three increments permanently given to the respondent workman to be highly excessive or disproportionate to the guilt. But curiously enough it has interfered with the punishment only on the ground that the workman has prayed for some leniency. It is really shocking that the Industrial Tribunal has in the presence of these findings

given by itself has reduced the punishment only on the ground that the workman has prayed for taking lenient view. Interference should have been made in the matter of punishment where the Tribunal would have found that the punishment given was highly excessive or severe. But it is a case where the punishment was not found to be severe or excessive, still the Tribunal has exercised jurisdiction under section 11 of the Industrial Disputes Act, 1947 and the punishment was reduced on the ground that it is wholly extraneous and irrelevant. This award is wholly perverse and I am of the considered opinion that the Tribunal has proceeded only with a view that when the workman has approached it, some relief has to be granted. This is wholly misconception of law. Such a perverse award cannot be allowed to stand.

4. In the result this petition succeeds and the same is allowed. Order of Tribunal dated 26th November, 1984 passed in Reference (IT) No.638 of 1981 is quashed and set aside. Rule made absolute. No order as to costs.

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