

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3680 of 1987

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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

DURLABHJI CHHAGAN VAGHELA

Versus

GSTC

Appearance:

MR PM THAKKAR for Petitioner

MR MD PANDYA for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 30/04/98

ORAL JUDGEMENT

Petitioner herein is serving as Conductor in the Gujarat State Road Transport Corporation the respondent No. 1 herein (hereinafter referred to as "the Corporation"). Respondent No. 2 is the Officer of the Corporation and respondent No. 3 is the appellate authority constituted by the Corporation. Disciplinary proceeding was initiated against the petitioner for various acts of commission and omission amounting to misconduct. By issuing chargesheet on 6th October, 1978 and after holding due inquiry into the imputation of charge made against the petitioner, the petitioner was dismissed from service under order dated 2nd August, 1979. Departmental appeal preferred by the petitioner was also dismissed by the first appellate authority. Feeling aggrieved, the petitioner preferred second appeal before the second appellate authority. The second appellate authority, under its order dated 20th January, 1981, allowed the appeal partially and ordered reinstatement of the petitioner as a conductor in the minimum of the pay scale. Feeling aggrieved, the petitioner preferred writ petition being Special Civil Application NO. 5349 of 1982 before this Court. This Court (Coram : Mr. Justice G. T. Nanavaty) disposed off the said petition on 3rd March, 1983 and made the order as under:

"Rejected with the observation that it will be open to the petitioner to make a representation to the General Manager as regards the question of punishment and with the recommendation that it should be considered on its own merits. "

2. In view of the above order, the petitioner made a representation to the Corporation. However, it appears that the said representation was not decided by the Corporation as ordered by this Court. The petitioner, therefore, preferred another writ petition being Special Civil Application No. 523 of 1986. I am informed by Mr. Thakkar that the said Special Civil Application No. 523 of 1986 was withdrawn by the petitioner with a view to making a fresh representation to the Corporation. Accordingly, the petitioner made a fresh representation on 18th January, 1987. The Corporation, under its communication dated 12th February, 1987, informed the petitioner that his representation was not acceptable to the Corporation. Feeling aggrieved, the petitioner has preferred this petition.

3. Be it noted that the petitioner's petition i.e. Special Civil Application No. 5349 of 1982 against the impugned order of punishment made by the second appellate

authority was rejected by this court on 3rd March, 1982. However, the Court reserved liberty to the petitioner to make a representation to the General Manager in respect of question of punishment and it was recommended that it should be considered on its own merits. I am of the opinion that in view of the aforesaid order dated 3rd March, 1983, present petition against the validity of the order of punishment made by the appellate authority is barred by the principles of res-judicata and is not maintainable. It is a settled proposition of law that the adequacy of punishment is a matter to be decided by the disciplinary authority and ordinarily, this Court, while exercising its extraordinary jurisdiction under Article 226 of the Constitution, shall not interfere with the same. In the present case, acts of commission and omission of the petitioner amounting to misconduct are proved and in view of the guilt established against the petitioner, the punishment imposed upon the petitioner does not warrant interference by this Court. Petition is, therefore, dismissed. Rule is discharged. There shall be no order as to costs.

Vyas