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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated: 15th day of February 1999

Before  
THE HON'BLE Mr.JUSTICE V.GOPALA GOWDA

WRIT PETITION No.101/97

Between:

Karnataka State Road  
Transport Corporation,  
by its Divisional Controller,  
Gulbarga Division,  
Gulbarga. ...PETITIONER

(By N.D.Ramachandra Rao)

And:

1. Appanna,  
Ex-Conductor,  
Major, R/o.Okali,  
C/o. Saleem Hazari,  
Advocate,  
Vichayanagar,  
Gulbarga.
2. The Presiding Officer,  
Labour Court,  
Gulbarga. ...RESPONDENTS

(By Sri Parabhudevaru for R-1)

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W.P is filed under Articles 226 and 227  
of the Constitution of India praying to quash  
the Award at Annexure-A dated 30-1-1995 passed  
by the Labour Court, Gulbarga, in K.I.D.No.  
285/88.

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This W.P coming on for hearing in 'B' Group this day, the Court made the following:-

O R D E R

The Petitioner Corporation has challenged the impugned award at Annexure-A dated 30-1-1995 setting aside the order of dismissal passed against the first respondent workman and directing the petitioner Corporation to reinstate him with backwages.

2. The reference made by the State Government of the dispute raised by the workman was adjudicated by the Labour Court. The validity of domestic enquiry was tried as preliminary and it was held that the enquiry conducted was not fair and proper. On that basis the workman was reinstated and the Labour Court granted interim relief from 25-7-1992 and accordingly he is working.

3. The Corporation did not avail the opportunity given to it to adduce additional evidence in support of its action in view of the fact that the domestic enquiry conducted



was held invalid. Therefore, the Labour Court ought not to have placed reliance on the enquiry record in view of the law laid down in COOPER ENGINEERING WORKS vs P.P. MUNDHE (1975(2) LLJ 379, which has been followed by this Court in MOTOR INDUSTRIES Co. vs ADINARAYANAPPA (1978(1) LLJ 443).

4. The Labour Court held that the Corporation has not justified in passing the order of dismissal as the same was excessive in nature having regard to the gravity of misconduct alleged against the workman. The Labour Court rightly set aside the order of dismissal. At the same time it denied backwages from the date of dismissal till 24-7-1992 by exercising the power under Section 11-A of the Industrial Disputes Act, 1947 since it was held that the charge was partly proved placing reliance on the explanation submitted by the workman in Ex.M-18. The Labour Court should not have placed reliance on the explanation of the workman to hold that the charge was partly proved as proving the charge was the duty of the Corporation. However, the workman has not challenged the said finding or denial of

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backwages from the date of dismissal till his reinstatement. The Corporation has not shown that the discretion exercised by the Labour Court is erroneous or unreasonable. Hence, the impugned award need not be interfered with.

5. Writ Petition is rejected as devoid of merits.

Sd/-  
JUDGE

MP  
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