

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6032 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 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? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO
- @

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

WORKMEN S T KARMACHARI MANDAL INTUC

Appearance:

1. Special Civil Application No. 6032 of 2000
MRS VASAVDATTA BHATT for Petitioner No. 1
MR MUKESH H RATHOD for Respondent No. 1
-

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/09/2001

ORAL JUDGEMENT

#. This matter has already been admitted. With the consent of the parties, the matter is taken up for final hearing today.

#. The respondent workman was serving as the Conductor and he was subjected to the chargesheet on the ground that on 31.3.1988 he was on duty on S.T.Bus plying between Rajkot to Okha, at that time, there was checking by the checking party. During the said checking, it was found that six passengers of one group who were travelling from Khambhalia to Dwarka were not given the tickets. After conclusion of the departmental inquiry, it was held that the misconduct is proved and the respondent workman was subjected to the penalty of stoppage of two increments with permanent effect. The said order was subjected to the departmental appeal, but the said appeal was dismissed by the department and thereafter industrial dispute was raised by the respondent workman which was numbered as Reference (ITR) No.33 of 1994. The said reference was heard by the Industrial Tribunal No.2 Rajkot who by its award dated 3.1.2000 partly allowed the said reference and the penalty of withholding of two increments with permanent effect was substituted with stoppage of two increments without cumulative effect. The said award is impugned in the present petition at the instance of the petitioner Corporation.

#. It was argued by the learned advocate for the petitioner Corporation that once the charges were proved in the domestic inquiry and when the department itself has taken lenient view by passing the order of withholding of two increments with future effect, the Industrial Tribunal should not have interfered with the penalty order especially when it cannot be said that the penalty imposed by the management was disproportionate to the misconduct which is proved against the employee. Ultimately, both the sides have left the aforesaid question, regarding passing of the appropriate punishment, to this court.

#. Considering the facts and circumstances of the case as well as considering the misconduct which is proved against the respondent workman, in my view, penalty order of the Industrial Tribunal is required to be modified and the concerned workman should be subjected to withholding of one increment with future effect. In order to see that there may be some deterrent effect, the order passed by the Industrial Tribunal is required to be modified and is accordingly modified to the aforesaid extent and the concerned workman will be subjected to the punishment of withholding of one increment with future effect. The petition is accordingly allowed to the aforesaid extent.

Rule is made absolute accordingly with no order as to costs.

(P.B.Majmudar,J)
(pathan)