

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6320 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  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

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

K M PANDYA

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Appearance:

1. Special Civil Application No. 6320 of 2000  
MR ASHISH M DAGLI for Petitioner No. 1  
MR GK RATHOD for Respondent No. 1
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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/09/2001

ORAL JUDGEMENT

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

#. On behalf of the respondent workman, dispute was raised which was referred to the Industrial Tribunal, Nadiad and the same was numbered as Reference (ITN) No.403 of 1998 (Old No.283 of 1993). The respondent workman was serving as driver in the S.T.Corporation at the relevant time. He was subjected to the departmental proceedings on the ground that he has purchased luxury bus and was doing the business, but he has not informed the same to the department. Ultimately, the said misconduct was proved in the departmental inquiry and his pay-scale was reduced to five stages.

#. The aforesaid action of the management was challenged by the respondent workman by raising the aforesaid industrial dispute. The Industrial Tribunal interfered with the order of punishment which was passed by the management and instead of reducing the workman into five stages in the pay-scale, he was subjected to the punishment of reducing of two stages in the pay-scale. The said order has been challenged by the S.T.Corporation in this petition.

#. It is argued by the learned advocate for the S.T.Corporation that, since the misconduct imposed upon the respondent workman was proved in the departmental inquiry, the Industrial Tribunal should not have interfered with the punishment order passed by the management.

#. It is required to be noted that, as per Rule 24, the employee was required to get prior permission from the department. Not only that, as found by the Industrial Tribunal in paragraph 7 of the award that the charge against the respondent workman is amply proved in the departmental inquiry. It was found that the respondent was owner of the luxury bus bearing No.GTJ 6537 which was bearing the name of Bhavna Travels. Not only that, it was found that the concerned workman was paying the salary to the driver of the said luxury bus namely Pankajkumar Trivedi. It is recorded in paragraph 8 of the award that the concerned workman has also admitted the said charge levelled against him. However, the Industrial Tribunal interfered with the said penalty order and modified the penalty order as stated above. In my view, since the misconduct is proved against the respondent workman and when the department itself had not passed the order of dismissal or removal, it cannot be said that the order of penalty passed by the Corporation is disproportionate to the charge levelled against the respondent workman. This is not a case in which the Industrial Tribunal should have interfered with the order

of penalty.

#. Under the aforesaid circumstances, the award of the Industrial Tribunal is required to be interfered with. The award of the Industrial Tribunal is, therefore, quashed and set aside and the penalty imposed by the management under the domestic inquiry is upheld. The learned advocate for the respondent workman submitted that, no other departmental proceedings are pending against the concerned workman in any manner. It is directed that whatever the amount which is required to be paid to the concerned workman, if not paid, on the basis of this order, shall be paid within a period of two months from today.

#. The petition is accordingly allowed. Rule is made absolute accordingly with no order as to costs.

(P.B.Majmudar,J)

(pathan)