

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 16610 of 2004****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE KS JHAVERI**

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- 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 ?

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FIROZALIR HASANALI CHOPRAWALA....Petitioner(s)**Versus****GUJARAT STATE ROAD TRANSPORT CIRPORATION & 1....Respondent(s)**

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Appearance:

MR MUKESH H RATHOD, ADVOCATE for the Petitioner(s) No. 1

MR HARDIK C RAWAL, ADVOCATE for the Respondent(s) No. 1 - 2

RULE SERVED BY DS for the Respondent(s) No. 1 - 2

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CORAM: HONOURABLE MR.JUSTICE KS JHAVERI**Date : 30/11/2012**

ORAL JUDGEMENT

1. This petition has been preferred against the judgment and award passed by the Labour Court, Jamnagar in Reference (LCJ) No.44/2003 dated 10.06.2003 whereby, the reference was partly allowed and the respondent-Corporation was directed to reinstate the petitioner-workman on his original post without any back wages and thereafter, to compulsorily retire the workman from service.

2. The facts in brief are that on 25.07.1998 while the petitioner-workman was discharging his duties as Conductor with the respondent-Corporation, the Bus was checked by the checking squad and it was found that the petitioner had committed certain alleged irregularities in the issuance of tickets to passengers. Therefore, the petitioner was served with a charge-sheet and ultimately, departmental enquiry was initiated against him. Since the charges were proved, a penalty of stoppage of two increments with future effect was imposed upon the petitioner. Thereafter, a review show cause notice dated 08.08.2000 was served upon the petitioner since there was no improvement in the conduct and behaviour of the petitioner. After giving due opportunity, the order dated 25.07.2001 was passed by which the petitioner was dismissed from service. Against the said order of dismissal, the petitioner had preferred first appeal and thereafter, second appeal before the appellate authorities of the respondent-Corporation. However, both the appeals were rejected. Being aggrieved by the above action of the respondent, the petitioner raised a dispute, which, ultimately, culminated into a reference before the Labour Court. The Labour Court partly allowed the said reference by impugned award dated 10.06.2003. Hence, this petition.

3. Heard learned counsel for the respective parties. In the departmental enquiry initiated against the petitioner, the charges were proved. The petitioner was found guilty of committing serious irregularities in the issuance of tickets. In the past also, the petitioner was imposed

penalty of stoppage of increments on account of committing such default but, in spite of that the petitioner did not improve and continued to commit such illegality. The petitioner had committed in all 45 defaults in the past.

4. Considering the seriousness of illegality committed by the petitioner and his past defaults, the respondent-Corporation imposed the penalty of dismissal from service. However, by taking a sympathetic view, the Labour Court modified the order of dismissal u/s.11-A of the I.D. Act. In my view, the illegality committed by the petitioner is very serious in nature. Now, when the same has been modified by the Labour Court u/s.11-A of the I.D. Act, I do not deem it appropriate to disturb the same looking to the total number of defaults committed by the petitioner. I am in complete agreement with the reasonings given by the Labour Court in the award and hence, find no reasons to disturb the same.

5. For the foregoing reasons, the petition is dismissed. Rule is discharged.

(K.S.JHAVERI, J.)

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