

Hon'ble Alok Singh, J.

Mr. Amar Shukla, Advocate holding brief of Mr. Gopal Narain, Advocate for the petitioner.

Mr. R.S. Bisht, Advocate for respondent nos. 2 and 3.

Present petition is filed assailing the award dated 27.07.2004 (Annexure No. 8 to the writ petition) passed by Labour Court, Haldwani whereby reference was answered against the petitioner / workman.

Brief facts of the present case, *inter alia*, are that on 8th /9th September 1990, petitioner was on duty as Conductor in Bus No. UP 78 9254; Bus was stopped and checked by Traffic Inspector; in checking, 48 passengers were found travelling in the bus; out of 48 passengers, 20 passengers were found without ticket and 23 passengers although were found having ticket but no entry was found in the waybill; thereafter, proceedings were initiated against the petitioner / workman and his services were terminated by the Department vide order dated 10.05.1992; on the request of petitioner, a reference was made to the Labour Court, however, Labour Court has answered the reference against the workman / petitioner, therefore, petitioner has approached this Court under Article 226 / 227 of the Constitution of India.

I have heard Mr. Amar Shukla, Advocate for the petitioner & Mr. R.S. Bisht, Advocate for respondent nos. 2 and 3 and have carefully perused the record.

Undisputedly, on checking 20 passengers were found without ticket and 23 passengers were found although having ticket but no entry was found in the waybill of those 23 passengers, as well.

Defence of the petitioner / workman before the Disciplinary Authority and before this Court is that since petitioner was directed by the Traffic Inspector to issue tickets to 20 passengers travelling without ticket and on the instruction of the Traffic Inspector, tickets were issued to 20 passengers, therefore, there was no misconduct on the part of the petitioner / workman, consequently, dismissal order was arbitrary and totally unjustified.

Since 20 passengers were found travelling without ticket, therefore, merely because petitioner had issued tickets to those 20 passengers as well, on the instructions of Traffic Inspector does not absolve the petitioner from misconduct. Since petitioner had allowed 20 passengers travelling without tickets, it is a gross misconduct and punishment of dismissal cannot be said to be unjustified or arbitrary.

Consequently, writ petition fails and is hereby dismissed.

(Alok Singh, J.)

26.09.2014

SKS

