

CASE NO.:
Appeal (civil) 4238 of 2006

PETITIONER:
U.P. State Road Transport Corporation, Dehradun

RESPONDENT:
Suresh Pal

DATE OF JUDGMENT: 22/09/2006

BENCH:
G.P. Mathur & A.K. Mathur

JUDGMENT:
JUDGMENT

A.K. Mathur, J.

Leave granted.

This appeal is directed against an order passed by the learned Single Judge of the Uttaranchal High Court at Nainital in Writ Petition No. 729(M/S) of 2001 whereby learned Single Judge by order dated 28.7.2005 has confirmed the finding of the Tribunal holding the delinquent guilty of charges but the punishment of dismissal is not commensurate to the charges leveled against the respondent. The learned Single Judge has reduced the punishment from that of dismissal to that of punishment of one censure entry and stoppage of two increments with cumulative, effect. It is, however, held that the respondent shall not be paid back wages but the continuity of the service shall be given to him with cumulative effect. Hence, the present appeal has been filed by U.P. State Road Transport Corporation, Dehradun.

Brief facts are that the respondent was appointed as a Conductor on 24.7.1988. While he was carrying the bus of U.P. State Road Transport Corporation (hereinafter referred to as 'the Corporation') on 28.7.1989 from Uttarkashi to Chamoli, the bus was suddenly checked and it was found that twenty passengers were travelling without ticket in the bus. A chargesheet was served to him for misconduct and after holding a domestic enquiry, he was dismissed from service w.e.f. 5.1.1990. After dismissal from service he raised an industrial dispute. A reference was made to the Industrial Labour Court which reads as under:

"Whether the termination of the services of the applicant/workman Shri Suresh Pal, s/o Nathu Ram, Conductor by the employers from 5.1.1990 is unjustified and/or illegal? if so, to which benefit/compensation the applicant/workman is entitled and to what extent?"

After receipt of the reference, the Labour Court issued notices to the parties. The Labour Court after considering the domestic enquiry found the charges proved against the respondent and upheld the dismissal.

Aggrieved against this order the respondent filed writ petition before the High Court of Uttaranchal at Nainital. The learned Single Judge though confirmed the findings of Labour Court against the delinquent but reduced the punishment as aforesaid. Hence present Special Leave Petition by the Corporation.

We have heard learned counsel for the parties and perused the record.

Short question for our consideration in the present case is whether the punishment which has been modified by the learned Single Judge is justified

or not? The learned Single Judge found that the punishment awarded in the present case is disproportionate to the guilt of the delinquent. So far as, the guilt of the petitioner is concerned, in the domestic enquiry it has been found that the petitioner is guilty of not issuing tickets to the twenty passengers and the same finding of the domestic enquiry has been upheld by the Labour Court & High Court. The petitioner was a conductor and holding the position of trust. If incumbent like the petitioner starts misappropriating the money by not issuing a ticket and pocketing the money thereby causing loss to the Corporation then this is a serious misconduct. It is unfortunate that the petitioner was appointed in 1988 and in the first year of service he started indulging in practice then what can be expected from him in the future. If this is the state of affair in the first year of service and if such persons are allowed to let off to the light punishment then this will be a wrong signal to the other persons similarly situated. Therefore, in such cases the incumbent should be weeded out as fast as possible and same has been upheld by the Labour Court. We are firmly of the view that such instances should not be dealt with lightly so as to pollute the atmosphere in the Corporation and other co-workers.

Normally, courts do not substitute the punishment unless they are shocking disproportionate if the punishment is interfered or substituted lightly in the punishment in exercise of their extraordinary jurisdiction then it will amount to abuse of the process of court. If such kind of misconduct is dealt with lightly and courts start substituting the lighter punishment in exercising the jurisdiction under Article 226 of the Constitution then it will give a wrong signal in the Society. All the State Road Transport Corporations in the country have gone in red because of the misconduct of such kind of incumbents, therefore, it is the time that misconduct should be dealt with iron hands and not leniently.

Learned counsel for the appellant invited our attention to a decision of this Court in the case of Regional Manager, U.P. S.R.T.C., Etawah & Ors. v. Hoti Lal & Anr., reported in [2003] 3 SCC 605 wherein, this Court has very categorically held that a mere statement that it is disproportionate would not suffice to substitute a lighter punishment. This Court held as under:

"The court or tribunal while dealing with the quantum of punishment has to record reasons as to why it is felt that the punishment was not commensurate with the proved charges. The scope for interference is very limited and restricted to exceptional cases. In the impugned order of the High Court no reasons whatsoever have been indicated as to why the punishment was considered disproportionate. Failure to give reasons amounts to denial of justice. A mere statement that it is disproportionate would not suffice, it is not only the amount involved but the mental set-up, the type of duty performed and similar relevant circumstances which go into the decision-making process while considering whether the punishment is proportionate or disproportionate. If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable. Judged in that background, conclusions of the Division Bench of the High Court are not proper."

In view of the above observation made by this Court there remains nothing more to be added.

Learned counsel for the respondent has invited our attention to a decision of this Court in the case of U.P. S.R.T.C. & Ors. v. Manesh Kumar Mishra & Ors., reported in [2000] 3 SCC 450. In that case this Court in peculiar facts took lenient view of the matter and upheld the order of the High Court whereby the punishment of dismissal was found to be shockingly disproportionate and justified in interfering with the quantum of punishment and directing reinstatement as against dismissal. It was also a

case of U.P. State Road Transport Corporation. Be that as it may, each case has its own peculiar facts but in the present case we are satisfied that the petitioner has been found squarely guilty of misconduct of not issuing tickets to the passengers as found in the domestic enquiry. The High Court also found that the inquiry is correct and the petitioner has been rightly found to be guilty but the learned Single Judge has substituted a lighter punishment.

In view of the above discussion, we are of the opinion, that the view taken by the learned Single Judge cannot be upheld and there is no reason worth the name to award lighter punishment. Hence, we allow this appeal, set aside the order of the learned Single Judge and confirm the order of dismissal passed by the Corporation.

No order as to costs.

JUDIS