

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 10758/2020

Chief Manager, Rajasthan State Road Transport Corporation,
Head Office Bundi Agar.

-----Petitioner

Versus

Shri Mohan Singh Rajawat S/o Shri Raghu Nath Singh, Ex
Conductor Bundi Agar, R/o - Village - Hindupura, Tehsil-Bonli,
Distt- Swaimadhopur (Raj).

-----Respondent

For Petitioner(s)	:	Mr. Om Prakash Sheoran
For Respondent(s)	:	Mr. Kailash Chand Sharma

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

22/01/2026

1. Instant writ petition is filed under Article 226 and 227 of Constitution of India by the petitioner petitioner-applicant aggrieved from award dated 07.02.2019 in MIT case No.270/1998 (CIS No.2019/15) passed by learned Industrial Tribunal, Jaipur under Section 33 (2)(b) of the Industrial Dispute Act, 1947.
2. The petitioner-applicant has initiated enquiry against the respondent non-applicant, and pursuant to enquiry report, a punishment order was passed to terminate the services of respondent on 28.08.1998 by the Disciplinary Authority. An application for approval of termination order was submitted to the Industrial Tribunal and vide order dated 04.10.2010, the enquiry was declared as unfair and the petitioner-applicant was given an opportunity to lead evidence and prove the charges. After evidence of both the parties, the Industrial Tribunal has dismissed

the application under Section 33 (2)(b) of the Industrial Dispute Act.

3. Learned counsel appearing on behalf of petitioner while placing reliance upon judgment in case of **U.P.S.R.T.C. Vs. Pradeep Kumar reported in (2016) 15 SCC 122**, has submitted that the Tribunal has no authority to substitute its opinion to set aside the findings recorded in domestic enquiry. He also submitted that once the domestic enquiry was declared as unfair and fresh evidence is adduced before the Tribunal then the Tribunal is required to apply principle of preponderance of probability and on basis of the probability decide the issue. He also submitted that in the instant case sufficient evidence in favour of petitioner were available on record and same were not considered by the Tribunal. He also submitted that the allegation upon the respondent was that he has collected fare from 83 passengers and without issuing ticket to them, permitted to travel and the money was misappropriated by him. He also submitted that at the time of inspection, it was found that these 83 passengers were traveling in roadways bus. He also submitted that three witnesses were examined by the petitioner and all three are eye witnesses, who caught the respondent with 83 without ticket passengers, in the roadways bus.

4. Aforesaid contentions were opposed by learned counsel for respondent and submitted that as per charge-sheet and log-sheet, 255 passengers were traveling in a bus and out of which, 172 were having tickets and 83 were traveling without ticket, which is not only improbable but also impossible. He also submitted that the domestic enquiry conducted by the petitioner was found as

unfair and the petitioner was given an opportunity to lead evidence, but the evidence was fabricated and mechanical in nature and same was discarded by the Tribunal. No interference can be made in the award passed by the Tribunal.

5. Heard learned counsel for the parties and perused the material placed on record.

6. On 15.05.1991, a roadways bus No.4185 was intercepted and checked by Vigilance Team of petitioner. During inspection, it was found that 83 without ticket passengers were traveling in bus and the respondent, who was conductor of the bus has already collected the fare amount from said passengers. The respondent was served a memo and after enquiry, the respondent was found guilty. Vide order dated 28.08.1998, the respondent was punished with order of termination and for approval, an application under Section 33 (2)(b) of Industrial Dispute Act is filed before the Tribunal.

7. After considering the arguments of both the parties, learned Tribunal has declared the domestic enquiry as unfair and directed the parties to lead the evidence before the Tribunal. The petitioner has examined Ramesh Tiwari, Nawal Singh and Kamal Singh as their witnesses, who are present at the time of inspection of vehicle (bus). The respondent has examined himself as witness.

8. The Tribunal has considered practicability of the evidence that in a bus, it is impossible to board the 255 passengers by all means. As per the case of the petitioner, 172 passengers were having tickets, whereas 83 were traveling without tickets. The Tribunal has noticed that the log-sheet, which was in possession of driver was not produced before the Tribunal to demonstrate that a

remark was made in log-sheet. The case of the petitioner is that the respondent has fled from the spot with the log-sheet. The log-sheet (M1), which was produced before the Tribunal indicate that it has mentioned the name of Harikesh Meena and after cutting his name, the name of respondent was mentioned. The evidence which was considered in detail by the Tribunal indicate that evidence was not enough to justify the charge, and moreover, the evidence was not sufficient to inspire confidence of the Tribunal.

9. After punishment, the petitioner has filed an application for approval of the punishment order. The domestic enquiry was adjudged as unfair and the evidence produced before the Tribunal does not inspire confidence of the Tribunal. In absence of a proper evidence, a charge in a disciplinary proceeding cannot be held to be proved. Once enquiry has been declared as unfair then evidence lead before the Tribunal is required to be considered to establish charge.

10. No doubt about the scope of enquiry in particular, the evidence has to be considered on basis of preponderance of probability, but the evidence has to be sufficient to inspire confidence of the Tribunal. If evidence does not inspire confidence then it is not necessary to place reliance upon same set of evidence.

11. The Industrial Tribunal are empowered to approve or reject application for termination under Section 33 (2)(b). It is duty of the Tribunal to consider both procedural compliance and substantive merits. In the instant case, the opportunity to lead evidence was already given to the petitioner and the material clearly indicate that the evidence is not sufficient to inspire

confidence of the Tribunal, thus, we cannot substitute our opinion when the evidence led by the petitioner is not sufficient to justify the allegations made against the respondent, therefore, there is no perversity or illegality in the order passed by the Tribunal.

12. Considering the scope of interference under Article 226/227 of the Constitution of India, we are of the view that no case is made out for interference, hence, the writ petition is liable to be dismissed.

13. In view of discussion made herein above, the writ petition preferred by the petitioner is hereby dismissed, with pending application, if any.

14. No order as to cost.

(ASHOK KUMAR JAIN),J