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SLP(C)No. 18441 OF 2000

ITEM No.32

Court No. 3

SECTION XV
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.18441/2000

(From the judgement and order dated 01/08/2000 in DBCSA 16/98
of The HIGH COURT OF RAJASTHAN AT JAIPUR)

REGIONAL MANAGER, R.S.R.T.C.

Petitioner (s)

VERSUS

GHANSHYAM SHARMA

Respondent (s)

(With prayer for interim relief and office report)

Date : 06/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner (s)

Mr. Sushil Kumar Jain, Adv.

For Respondent (s)

Mr. Jagdeep Dhankar, Sr. Adv.
Dr. Sushil Balwada, Adv.
Mr. Devendra Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

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Special leave granted.

The appeal is allowed for the reasons recorded in
the signed order, the order of the Division Bench is set
aside and that of the Single Judge restored. No costs.

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Kalyani

(S.L. GOYAL)~
COURT MASTER

(Signed Order is placed on the file.)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001@@
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(Arising out of S.L.P.(C) No. 18441 of 2000)

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Regional Manager, R.S.R.T.C. Appellant

Versus

Ghanshyam Sharma Respondent

O R D E R@@
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Special leave granted.

The respondent in the present case was employed as a Conductor by the appellant. On more than one occasion, he was punished having been charge-sheeted on the ground of not issuing the tickets to the passengers. In the instant case, it was found that he was carrying 23-1/2 passengers without ticket and an inquiry was conducted and he was removed from service.

On a reference being made, the Labour Court invoked its jurisdiction under Section 11(A) and while upholding the finding that the respondent was guilty of misconduct it directed the respondent's reinstatement with continuity of service but without back wages. The learned Single Judge of the High Court set aside the award which decision has been reversed by the Division Bench. Hence this appeal.

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This Court in Karnataka State Road Transport@@
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Corporation Vs. B.S. Hullikatti, 2001 (2) SCC 574, has@@
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held that in such cases where the bus conductors carry passengers without ticket or issue tickets at a less rate than the proper rate, the said acts would inter alia amount to either being a case of dishonesty or of gross negligence and such conductors were not fit to be retained in service because such inaction or action on the part of the conductors results in financial loss to the Road Transport Corporation. This Court was firmly of the opinion that in cases like the present orders of dismissal should not be set aside.

Furthermore, we agree with the observations of the Single Judge in the present case that the Labour Court was not justified in interfering with the punishment of dismissal. Though under Section 11 (A) the Labour Court has jurisdiction and powers to interfere with the quantum of punishment, however the discretion has to be used judiciously. When the main duty or function of the Conductor is to issue tickets and collect fare and then deposit the same with the Road Transport

Corproation and when a conductor fails to do so, then it will be misplaced sympathy to order his reinstatement instead of dismissal.

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For the aforesaid reasons, this appeal is allowed, the order of the Division Bench is set aside and that of the Single Judge restored. No costs.

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.....J
(B.N. KIRPAL)

.....J
(N. SANTOSH HEGDE)

New Delhi,
August 6, 2001.

.....J
(SHIVARAJ V. PATIL)