

**Rsrc Vs. Ramesh Chandra**

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**SooperKanoon Citation :** [sooperkanoon.com/762398](http://sooperkanoon.com/762398)

**Court :** Rajasthan

**Decided On :** Dec-01-1999

**Reported in :** (2001)IIILLJ953Raj; 2000WLC(Raj)UC451

**Judge :** N.N. Mathur, J.

**Acts :** [Industrial Disputes Act, 1947](#) - Sections 11A; [Constitution of India](#) - Articles 226 and 227

**Appeal No. :** S.B.C. W.P. No. 669/1993

**Appellant :** Rsrc

**Respondent :** Ramesh Chandra

**Disposition :** Petition allowed

**Judgement :**

**N.N. Mathur, J.**

1. This writ petition under Article 226 and 227 the [Constitution of India](#) is filed by the Rajasthan State Road Transport Corporation, hereinafter referred to as 'the petitioner Corporation', challenging the award/judgment dated December 26, 1991 passed by the Industrial Tribunal, Bhilwara to the extent it has interfered with the order of punishment.

2. The necessary facts giving rise to the present petition are that first respondent Ramesh Chandra Sharma, Conductor with the petitioner Corporation was charged for misconduct. It is alleged that on December 22, 1981, he was on duty on Bus No. 284 plying from Bikaner to Ganganagar. The Bus was checked near Anupgarh. The inspecting Party found 13 passengers travelling without tickets. It revealed that the first respondent had collected bus fare from the said passengers but did not issue tickets to them. The charges were proved against the first respondent after a due enquiry. The Disciplinary Authority agreed with the finding of the Enquiry Officer and awarded punishment of removal from service. However, the appellate Authority reduced the penalty from removal of service to withholding of four annual grade increments with cumulative effect by order dated December 1, 1984, The workman was still not satisfied and, as such, he raised industrial dispute. The State Government made a reference to the Industrial Tribunal, Bhilwara. The Tribunal held that domestic enquiry conducted against the Conductor was just and fair, however, modified the punishment by reducing from stoppage of four grade increments with cumulative effect to stoppage of two increments.

3. It is contended by Mr. B.S. Bhati, learned counsel appearing for the petitioner-Corporation that the Tribunal has exceeded its jurisdiction in interfering with the punishment in absence of any justified reason.

4. On the other hand, Mr. A.K. Rajvanshi-submitted that the Tribunal has modified the order of punishment for just and good reasons. It is also submitted that the Tribunal has discretion under Section 11-A of the Industrial Disputes Act of 1947 to interfere with the finding of the domestic enquiry including the punishment. It is further submitted that once such discretion has been exercised by the Disciplinary Authority, it will not be open for the Tribunal or the High Court to interfere with such orders.

5. Learned counsel has placed reliance on certain decisions of the Apex Court viz. State Bank of India v. Samarendra Kishore Endow reported in 1994 (2) SCC 537 : 1994-I-LLJ-872; Jitendra Singh v. Shri Baidyanath Ayurved Bhawan Ltd. reported in AIR 1984 SC 976 : 1984 (3) SCC 5 : 1984-II-LLJ-10 and Rajasthan State Road

Transport Corporation v. Gopal Singh reported in 1999-III-LLJ(Suppl)-892.

6. I have considered the rival contention.

7. In Jitendra Singh's case (supra), the Apex Court while considering the scope of Section 11-A of the Industrial Disputes Act, held that a wide discretion is vested in the Tribunal in the matter of awarding the relief according to the circumstances of the case. Dealing with the powers of the High Court under Article 227 of the Constitution in such a matter, the Court held that though the High Court is entitled to scrutinise the orders of the subordinate Tribunal as a superior Court but such powers can be exercised only within the well accepted limitations.

8. In State Bank of India's case (supra), the Court held that the imposition of punishment is within the discretion and judgment of the disciplinary authority. The Court also held that it is open for the appellate authority to interfere with the discretion exercised by the disciplinary authority but it is not open for the High Court or the Administrative Tribunal to interfere with the discretion of the disciplinary or the appellate authority in the matter of awarding of punishment.

9. In Municipal Committee, Bahadurgarh v. Krishnan Behari reported in AIR 1996 SC 1249 : 1996(2) SCC 714, the Apex Court held that in cases involving corruption, there cannot be any other punishment than dismissal.

10. A Division Bench of this Court in its judgment dated November 2, 1999 rendered in D.B. Civil Special Appeal No. 1301/1999 explaining the said position, has observed as follows:

'It is of course true that the said case pertains to Proviso (a) to Article 311(2) of the [Constitution of India](#) but the ratio laid down in the said case equally applies to the instant case as well. It is well established that unless there are sufficient and cogent reason, the Courts are not to interfere with the punishment awarded by the disciplinary authority.'

11. A learned single Judge of this Court in his decision dated October 27, 1999, rendered in Rajasthan State Road Transport Corporation v. Amichand, S.B. Civil Writ Petition No. 4636/1989, after referring to various decisions of the Apex Court

and this Court, held that in a case where the Labour Court after considering the evidence under Section 11-A came to the conclusion that enquiry was fair and the Management succeeded even before the Labour Court to prove the misconduct of the delinquent, the quantum of punishment can be interfered with only after evaluating the severity of the misconduct and by assessing whether punishment imposed by the employer is incommensurate with the gravity of the misconduct.

12. From the aforesaid cases, it emerges that the Labour Court has power under Section 11-A of the Industrial Disputes Act to interfere with the punishment awarded by the disciplinary authority or as confirmed or modified by the appellate authority only in a case where the punishment awarded is shockingly disproportionate to the degree of guilt of the workman concerned. Once such a discretion has been exercised properly by the Labour Court, it will not be appropriate for the High Court in exercise of its powers under Articles 226 and 227 of the Constitution to interfere with the punishment awarded. The High Court will have a power to interfere if the finding on the point of punishment is perverse or is based on mis-conception of law.

13. In the instant case, there are serious allegations against the first respondent pertaining to the financial involvement. The charge has been proved. In my view, carrying passengers without ticket and causing wrongful am to himself and a wrongful loss to the Corporation, is certainly a misconduct of severe nature. No cogent reason has been given by the Labour Court for interfering with the quantum of punishment in a case of such a serious nature of misconduct. Thus, the order of the Labour Court on the question of quantum of punishment calls for interference by this Court in exercise of powers of this Court under Articles 226 and 227 of the [Constitution of India](#).

14. Consequently, the writ petition is allowed. The judgment of the Labour Court dated November 26. 1991 is quashed and set aside so far as it relates to modifying with the punishment awarded to the first respondent. The penally imposed by the appellate authority is restored. No order as to costs.