

SUPREME COURT OF INDIA

U.P. State Road Transport Corporation

Vs.

C.P. Goswami

C.A.No.6968 of 2013

(Anil R.Dave and Dipak Misra JJ.)

21.08.2013

JUDGMENT

ANIL R. DAVE, J.

1. Leave granted.
2. Being aggrieved by the judgment delivered in Writ-C No.375 of 2003 dated 7th November, 2012, by the High Court of Judicature at Allahabad, this appeal has been filed by the employer - U.P. State Road Transport Corporation.
3. By virtue of the impugned judgment, the High Court has confirmed the award dated 30th June, 2001, published on 3rd September, 2001, made by the Industrial Tribunal (III), U.P. at Kanpur.
4. The facts giving rise to the present litigation, in a nutshell, are as under :

The respondent-workman was working as a driver of the appellant-Corporation. On 17th January, 1996, the respondent had abused staff members of the Corporation and created hindrance in the work of the Corporation. It was also alleged that the respondent was under influence of liquor at the time when he had misbehaved. In the aforesaid circumstances, the respondent was placed under suspension and after holding a departmental enquiry, by an order dated 28th February, 1998, his service had been terminated. Being aggrieved by the order terminating his service, he had raised a dispute before the Industrial Tribunal and the Tribunal had looked into the entire case under its Adjudication Case No.73 of 1999.

5. After considering the evidence adduced before the Tribunal, it had come to the conclusion that the termination of the respondent was not legal and therefore, by an award dated 30th June, 2001, the order terminating service of the respondent dated 28th February, 1998, had been quashed and it was directed that the respondent should be reinstated in service as a driver with continuity of service and with arrears of salary for the period during which the respondent-workman was not permitted to perform his duties.

6. The aforesaid award was challenged before the High Court by the appellant-Corporation by filing Writ-C No.375 of 2003. The said writ petition has been dismissed by the impugned judgment dated 7th November, 2012, and the said judgment has been challenged in the present appeal.

7. The learned counsel appearing for the appellant-Corporation had mainly submitted that on account of misconduct of the respondent-workman, his service had been terminated and therefore, the order terminating his service ought not to have been interfered with by the Tribunal and the workman ought not to have been reinstated in the service with back wages. He had submitted that looking to the evidence adduced with regard to misconduct of the respondent-workman, the Tribunal should not have quashed and set aside the order terminating service of the respondent-workman. He had further submitted that the respondent should not have been awarded back wages especially when he had not worked for the said period on the principle of 'No work, No pay'.

8. On the other hand, the learned counsel for the respondent-workman had supported the judgment of the High Court affirming the award.

9. Upon hearing the learned counsel and looking at the facts of the case, we are of the view that the finding of facts arrived at by the Tribunal should not be interfered with, especially when the High Court has confirmed the same. However, we feel that the respondent should not have been awarded full back wages.

10. Instead of awarding back wages, in view of the facts of the case, it would be just and proper to award, in all a sum of Rs.5 lacs by way of compensation to the respondent-workman. It had been submitted that the appellant-Corporation had already paid more than Rs.3,60,000/- to the respondent-workman and if it is so, the amount so paid shall be adjusted while paying the compensation of Rs.5 lacs. Thus, we direct that by way of compensation, in all Rs.5 lacs should be given to

the respondent-workman in lieu of back wages. The said amount shall be paid to the workman within four weeks from today.

11. If the respondent-workman has not been reinstated till today, the appellant-Corporation shall reinstate him within four weeks from today.

12. In the above circumstances, the impugned judgment delivered by the High Court is modified to the above extent. The appeal is allowed to the extent stated hereinabove. No order as to costs.