

KARNATAKA STATE ROAD
TRANSPORT CORPORATION

A

v

B.S. HULLIKATTI

JANUARY 22, 2001

B

[B.N. KIRPAL AND MRS. RUMA PAL, JJ.]

Labour Law

State Road Transport Corporation—Bus Conductor—Responsibility of—Held he acts in fiduciary capacity—Must collect correct fare and deposit it—Knowingly not collecting the fare or short-charging is misconduct.

C

*Road Transport Corporation—Bus Conductor—Short-charging—Issuing tickets of less denomination than fare charged—Domestic enquiry—Dismissal—Dismissal order set aside—Labour Court and High Court directed reinstatement with full back wages—Appeal before Supreme Court—Held Conductor had earlier been found guilty as many as 36 times—The principle of *res ipsa loquitur*, namely, the facts speak for themselves, is clearly applicable in the instant case—Act of Conductor was either dishonest or was so grossly negligent—He was not fit to be retained as a Conductor because such action or inaction of his was bound to result in financial loss to the appellant-Corporation—Order of dismissal should not have been set aside—However in view of the fact that in the meantime Conductor had superannuated his reinstatement order not set aside.*

D

E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 784 of 2001.

F

From the Judgment and Order dated 1.10.99 of the Karnataka High Court in W.A. No. 4251 of 1998.

R.S. Hegde and K.R. Nagaraja for the Appellant.

S. Ravindra Bhat, Naveen R Nath, Ms. Lali Mohini Bhat and Shiv Kumar Suri for the Respondent.

G

The following Order of the Court was delivered :

Special Leave granted.

H

A In the instant case, the respondent was a Bus Conductor working with the appellant-Corporation. A domestic inquiry was held in which it was alleged that he had collected at a particular trip of the bus Rs. 2.25 from each of the 35 passengers but had issued tickets of the denomination of Rs. 1.75 only.

B As a result of the domestic inquiry, the respondent was dismissed from service. Reference was made to the Labour Court which came to the conclusion that the domestic inquiry was not fair or proper. Opportunity was given to the appellant to produce evidence which it did.

C After recording the evidence, the Labour Court by the impugned award came to the conclusion that the allegation that the Conductor had issued tickets of Rs. 1.75 instead of Rs. 2.25 was proved but it had not been proved that he had collected the amount of Rs. 2.25 from the passengers. The Labour Court set aside the punishment of dismissal and directed reinstatement with full back wages. On a writ petition being filed by the appellant-Corporation, D the Single Judge dismissed the same after noting that the Labour Court had awarded 50 percent of the back wages with reinstatement. Realising that this was a mistake, the Single Judge rectified the same and ordered reinstatement with full back wages. The letters patent appeal was dismissed. Hence, this appeal by special leave.

E On the facts as found by the Labour Court and the High Court, it is evident that there was a short-charging of the fare by the respondent from as many as 35 passengers. We are informed that the respondent had been in service as a Conductor for nearly 22 years. It is difficult to believe that he did not know what was the correct fare which was to be charged. Further-

F more, the appellant had during the disciplinary proceedings taken into account the fact that the respondent had been found guilty for as many as 36 times on different dates. Be that as it may, the principle of *res ipsa loquitur*, namely, the facts speak for themselves, is clearly applicable in the instant case. Charging 50 paise per ticket less from as many as 35 passengers could only be to get financial benefit by the Conductor. This act was either dishonest G or was so grossly negligent that the respondent was not fit to be retained as a Conductor because such action or inaction of his is bound to result in financial loss to the appellant-Corporation.

H It is misplaced sympathy by the Labour Courts in such cases when on checking it is found that the Bus Conductors have either not issued tickets to a large number of passengers, though they should have, or have issued

tickets of a lower denomination knowing fully well the correct fare to be charged. It is the responsibility of the Bus Conductors to collect the correct fare from the passengers and deposit the same with the Company. They act in a fiduciary capacity and it would be a case of gross misconduct if knowingly they do not collect any fare or the correct amount of fare. A

In our opinion, the order of dismissal should not have been set aside, but we are informed that in the meantime the respondent has already superannuated. We, therefore, on the special facts of this case, do not set aside the order of reinstatement, but direct that the respondent would not be entitled to any back wages at all but he would be entitled to the retiral benefits. B

The appeal is disposed of in the aforesaid terms. C

T.N.A.

Appeal disposed of.