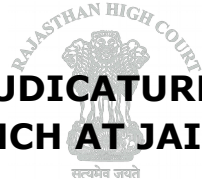




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 6611/2011

Laxman Singh Gurjar

-----Petitioner

Versus

1. Rajasthan State Road Transport Corporation Through Its Chariman Cum Managing Director, Chomu House, Jaipur Rajasthan.
2. The Executive Director Admn., Rajasthan State Road Transport Corporation, Jaipur Rajasthan.
3. The Chief Manager, Rajasthan State Road Transport Corporation, Dausa Depot, Dausa.

-----Respondents

For Petitioner(s) : Mr. Sunil Kumar Singodiya
For Respondent(s) : Mr. Surendar Meel, Dy. GC

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND
Order

19/10/2023

1. By way of filing this petition, the petitioner who was a driver has challenged the charge-sheet dated 22.02.2011 issued to him wherein allegation has been levelled by the respondents that certain passengers were found traveling without ticket.
2. Counsel for the petitioner submits that a charge-sheet has been issued to the petitioner without any conclusive evidence with a mala fide intention to spoil the career of the petitioner. Hence, interference of this Court is warranted.
3. Per contra, counsel for the respondents opposed the arguments raised by the counsel for the petitioner and submitted that for the misconduct of carrying the passengers



without ticket, a memorandum of charge-sheet has been issued to the petitioner wherein allegations have been levelled against him. Counsel submitted that the petitioner is at liberty to submit his reply and defence against the charges and, thereafter, the Inquiry Officer and the Disciplinary Authority would conclude the matter after taking into account the defence of the petitioner. Counsel submitted that since there is a Disciplinary Authority to adjudicate the veracity of the allegations levelled against the petitioner, hence, interference of this Court is not warranted.

4. Heard and considered the submissions made at the bar and perused the material available on the record.
5. This fact is not in dispute that for the alleged misconduct, the memorandum of charge-sheet has been served upon the petitioner on 22.02.2011 with the allegation that certain passengers were found without ticket. The petitioner can put his defence by way of filing his reply and producing adequate evidence in support of his defence. In any case, this Court cannot act as an Inquiry Officer or Disciplinary Authority to adjudicate the correctness of the allegations.
6. Hon'ble the Supreme Court in the case of **Union of India & Ors. Vs. K.K. Dhawan** reported in **(1993) 2 SCC 56**, held as under:-

"26. In the case on hand, article of charge clearly mentions that the nine assessments covered by the article of charge were completed:

- i) in an irregular manner,
- ii) in undue haste, and
- iii) apparently with a view to confer undue favour upon the assessee concerned.



(Emphasis supplied).

Therefore, the allegation of conferring undue favour is very much there unlike Civil Appeal No.560/91. If that be so, certainly disciplinary action is warranted. This Court had occasion to examine the position. In Union of India v. A. N. Saxena, (1992) 3 SCC 124 to which one of us (Mohan, J.) was a party, it was held as under (Paras 7 and 8 of AIR):

"It was urged before us by learned counsel for the respondent that as the respondent was performing judicial or quasi-judicial functions in making the assessment orders in question even if his actions were wrong they could be corrected in an appeal or in revision and no disciplinary proceedings could be taken regarding such actions. In our view, an argument that no disciplinary action can be taken in regard to actions taken or purported to be done in the course of judicial or quasi-judicial proceedings is not correct. It is true that when an officer is performing judicial or quasi-judicial functions disciplinary proceedings regarding any of his actions in the course of such proceeding should be taken only after great caution and a close scrutiny of his actions and only if the circumstances so warrant. The Initiation of such proceedings. it is true, is likely to shake the confidence of the public in the officer concerned and also if lightly taken likely to undermine his independence. Hence the need for extreme care and caution before initiation of disciplinary proceedings against an officer performing judicial or quasi-judicial functions in respect of his actions in the discharge or purported to discharge his functions. But it is not as if such action cannot be taken at all. Where the actions of such an officer indicate culpability, namely a desire to oblige himself or unduly favour one of the parties or an improper motive there is no reason why disciplinary action should not be taken."

27. This dictum fully supports the stand of the appellant. There is a great reason and justice for holding in such cases that the disciplinary action could be taken. It is one of the cardinal principles





of administration of justice that it must be free from bias of any kind.

28. Certainly, therefore, the officer who exercises judicial or quasi-judicial powers acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge.

Accordingly, the contention of the respondent has to be rejected. It is important to bear in mind that in the present case, we are not concerned with the correctness or legality of the decision of the respondent but the conduct of the respondent in discharge of his duties as an officer. The legality of the orders with reference to the nine assessments may be questioned in appeal or revision under the Act. But we have no doubt in our mind that the Government is not precluded from taking the disciplinary action for violation of the Conduct Rules. Thus, we conclude that the disciplinary action can be taken in the following cases:

- i) Where the officer had acted in a manner as would reflect on his reputation for integrity good faith or devotion to duty;
- ii) if there is prima facie material to show recklessness or misconduct in the discharge of his duty;
- iii) if he has acted in a manner which is unbecoming of a government servant;
- iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
- v) if he had acted in order to unduly favour a party;
- vi) if he had been actuated by corrupt motive however, small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great."

7. In the case of **State of Orissa Vs. Sangram Keshari Misra: (2010) 13 SCC 311** Hon'ble Apex Court held that normally a charge-sheet is not quashed prior to conclusion of the enquiry on the ground that facts stated in the charge are



erroneous for the reason that finding correctness or truth of the charge is the function of the disciplinary authority.

8. Manifestly thus, the Government is not precluded from initiating disciplinary proceedings against an employee for violation of conduct rules even if the alleged misconduct took place while performing judicial or quasi judicial functions. In the present case, the charge-sheet clearly indicates that the petitioner while discharging duties had acted negligently and misused his post amounting to misconduct or violation of the Conduct Rules.
9. In the considered opinion of this Court, a writ petition generally does not lie against the charge-sheet unless it is established that the same had been issued by an authority not competent to initiate the disciplinary proceedings. It is a settled law that charge-sheet cannot be interfered with by the Court lightly or in a routine manner. The delinquent employee instead of seeking quashing of the charge-sheet at the initial stage must submit his/her reply before the Enquiry Officer/Disciplinary Authority and wait for conclusion of the proceedings.
10. In view of the above, the instant petition stands dismissed. However, the petitioner would be at liberty to raise all his available defence before the Inquiry Officer/Disciplinary Authority, which have been raised by him in this writ petition.
11. Stay application and all application(s) (pending, if any) also stand dismissed.

(ANOOP KUMAR DHAND),J

