Supreme Court of India
State Of Haryana And Anr. vs Rattan Singh on 22 March, 1977
Equivalent citations: AIR 1977 SC 1512, 1977 LablC 845, (1982) ILLJ 46 SC, (1977) 79 PLR 492, (1977) 2 SCC 491, 1977 (9) UJ 298 SC
Author: V K Iyer
Bench: J Singh, R Sarkaria, V K Iyer
JUDGMENT V.R. Krishna Iyer, J.

1. Shree Pal Singh has vigorously advocated the case of the respondent and we have listened to him patiently so that his studious preparation may not go unheeded. Even so, we are inclined to allow the appeal in the circumstances of the case. We may make it clear, right at the beginning, that the law that is applicable is not in dispute but the facts and circumstances of cases may differ when the application if law is called for.

2. In the present case, we may set out briefly the necessary facts. The Haryana Roadways is a State transport undertaking and the respondent before us is a member of the running staff, a conductor, whose job is to collect fares from passengers and issue tickets to them. Probably because conductors were collecting fares but not issuing tickets a system of flying squads was in operation in the Haryana State for the purposes of checking the proper collection of fares by conductOrs. The respondent before us, while on duty on bus (HRA-1262) on its trip from Palwal to Khodulpat, was the conductor whose vehicle was overtaken by the flying squad. The squad stopped the bus and its inspector discovered that four passengers had alighted at Bamini Kheda without tickets and that 11 passengers travelling in the bus also did not have tickets although they claimed to have paid the fares. A report followed, a charge sheet ensured, a domestic inquiry was held, guilt established and simple termination of services effected. The respondent hastened to the civil court for a declaration that the order of termination in the disciplinary enquiry was a nullity and he must therefore be given a declaration of continuance in service. The trial court, on the evidence, was taken in by this plea and the appellate court also affirmed it. The High Court dismissed the Second appeal in limine. The State has come by special leave with this appeal.

3. The principal ground on which the courts below have declared the termination bad is that none of the 11 passengers have been examined at the domestic enquiry. Secondly, it has been mentioned that there is a departmental instruction that checking inspectors should record the statements of passengers, which was not done in this case. The explanation of the State, as done out by the record, is that the inspector of the flying squad who had said that they had paid the fares but they declined to give such written statement. The third round which weighted with the courts was, perhaps, that the co-conductor in the bus had supported with this evidence, the guiltlessness of the respondent.

4. It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. Ail materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books,

although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fairplay is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding,even though of a domestic tribunal, cannot be held good. However, the courts below mis-directed themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The 'residuum' rule to which counsel for the respondent referred, based upon certain passengers from American jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement. The simple point is, was there some evidence or was there no evidence not in the sense of the technical rules governing regular court proceedings but in a fair common-sense way as men of understanding and wordly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a ending is certainty available for the court to look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamanlal, Inspector of the flying squad, is some evidence which has elevance to the charge leveled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground.

5. Reliance was placed, as earlier stated, on the non-compliance with the departmental instruction that statements of passengers should be recorded by inspectOrs. These are instructions of prudence, not rules that bind or vitiate in the violation. In this case, the Inspector tried to get the statements but the passengers declined, the psychology of the latter in such circumstances being understandable, although may not be approved. We cannot hold that merely because statements of passengers were not recorded the order that followed was invalid. Likewise, the reavaluation of the evidence on the strength of co-conductor's testimony is a matter not for the court but for the administrative tribunal in conclusion, we do not think the courts below were right in over-turning the finding of the domestic tribunal.

6. No actual punishment in the sense of dismissal or removal was inflicted and counsel for the State read out the order finally passed. The order merely states that the services were terminated and the State's Counsel agrees that there was no dismissal or removal or punitive punishment as seen from the order. All that we guess is, taking the words used in the order, the authorities probably had regard to the overall circumstances including the long years of service (10 years) and the comparatively young age of the delinquent at the time of termination for service (26) an relented in the matter of final termination by simply telling him off from service without inflicting any of the punishments. This lies within the power of the employer and it is not for us to say that the States should have punished him in a particular manner. Therefore, while confirming the order passed by the State and setting aside the decree of the courts below we hold that the consequences of a simple termination must follow. We, therefore, direct while allowing the appeal, that the State shall pay the respondent all that is due to him under the industrial law as an employment when his services are terminated without penal consequences apart from the salary for the period or he has worked after the recent reinstatement. Counsel for the appellants has agreed that this direction will be carried out as the State is bound to. With these observations, we allow the appeal but the parties will bear their costs throughout.