

SUPREME COURT OF INDIA

Orissa Cement Ltd.

Vs.

Habibullah

C.A.No.493 of 1957

(B. P. Sinha, P. B. Gajendragadkar and K. N. Wanchoo, JJ.)

30.04.1959

JUDGEMENT

GAJENDRAGADKAR J.;

1. This appeal by special leave arises out of an application made by M/s. Orissa Cement Ltd., Rajgangpur, Orissa (hereafter called the appellant) under S. 33 of the Industrial Disputes Act to the Industrial Tribunal for permission to dismiss the respondent Habibullah who was its employee. The tribunal took the view that the application was not justified and so it directed the appellant to reinstate the respondent. The appellant then preferred an appeal against the said order to the Labour Appellate Tribunal; but the appellate tribunal confirmed the order passed by the tribunal and dismissed the appeal. It is against this order that the present appeal by special leave has been filed.

2. The respondent who was a watchman in the appellant's service had gone to the appellant's hospital for treatment on 1-4-1954. The doctor had prepared an injection to be given to the respondent to treat him for his malarial fever and the respondent was lying on the cot waiting for the injection. It appears that Madan Mohan, another employee of the appellant, who was present in the hospital took the syringe from the dispenser and gave the injection to the respondent. Proceedings were taken against Madan Mohan for his misconduct; and when the matter had gone before the industrial tribunal, the respondent was cited as a witness by the said Madan Mohan, and he made a statement trying to clear Madan Mohan of the charge levelled against him. The tribunal disbelieved the respondent and granted the appellant's application for dismissing Madan Mohan. In disbelieving the respondent the tribunal has made strong criticism against the evidence given by the respondent. It is principally in respect of this evidence that the present proceedings against the respondent were taken by the appellant.

3. The appellant's case was that the respondent had intentionally given false evidence in the proceedings against Madan Mohan and had made false complaint to the police. Evidence shows that the respondent had made a statement before the appellant's officers that he had been injected by Madan Mohan; but he went back upon his statement when he gave evidence before the tribunal. It appears that the respondent had filed a complaint at the police station alleging that the statement made by him before the appellant's officers had been obtained from him by undue influence and pressure. The appellant's case was that the respondent deserved to be dismissed both because he gave false evidence in the case against Madan Mohan and because he filed a false complaint against the appellant. Both these grounds did not appear to the tribunals below to justify the dismissal of the respondent, and the appellant's argument is that the tribunals were in error in not allowing it to

dismiss the respondent. We do not think that we would be justified in interfering with the orders passed by the tribunals below in this case.

4. In regard to the evidence given by the respondent in the proceedings against Madan Mohan, the tribunal that tried the case against Madan Mohan was the very tribunal before which the present proceedings were also instituted; and it has observed that though the respondent had been disbelieved in the earlier proceedings that would not amount to misconduct which would justify his dismissal. In our opinion it would be difficult to accede to the argument that if the evidence given by an employee in an industrial adjudication is disbelieved that itself without anything more would constitute misconduct as alleged by the appellant. Then in regard to the complaint made by the respondent against the appellant before the police, the Labour Appellate Tribunal has observed that no evidence was led to show that the said complaint was untrue. It is unnecessary to say that it would not be proper for employees to make such serious allegations against their employers; and if it appears that the complaints made were known to be false to the employees that would be a serious matter; but having regard to the circumstances of this case we do not think that the appellant can successfully challenge the validity of the order passed by the Labour Appellate Tribunal on this ground alone.

5. In the result the appeal fails and must be dismissed. Under the circumstances of this case we make no order as to costs.

Appeal dismissed.

</html