

The Management of Tiwary Behcar & Co. (P.) Ltd.

Vs

Their Workmen and Another

Civil Appeal No. 1002 of 1967

(G. K. Mitter, C. A. Vaidialingam, I. D. Dua JJ)

18.01.1972

JUDGMENT

VAIDIALINGAM, J. -

1. In this appeal, on certificate, the judgment and order of the Patna High Court, dated October 10, 1966 in C.W.J.C. No. 753 of 1965, declining to interfere with decision of the Industrial Tribunal, setting aside the order passed by the appellant terminating the services of 26 workmen, is under attack.
2. Mr. A. B. N. Sinha, learned counsel for the appellant, represented at the outset that though the services of the 26 workmen were terminated, 25 workmen have been since reinstated, in accordance with the directions of the Tribunal and only one of the workmen, namely, Umesh Prasad Srivastava, has not been reinstated. The case of the management is that they offered to reinstate him, but as he has taken up another employment, he has not joined duty.
3. The Tribunal has held that the strike was legal and that the order of the management, terminating the services of the workmen was not justified. The High Court has also agreed with this view of the Tribunal.
4. Before us, Mr. Sinha, urged that from the facts leading up to the strike, it is clear that the strike itself was illegal in view of the fact that conciliation settlement was in force. However, it has now become unnecessary to go into this matter, because it is represented by the learned counsel, Mr. Sinha, that so far as Umesh Prasad Srivastava is concerned, the appellant is prepared to pay a lump sum of Rs. 7,000/- (Rupees seven thousand only) to him in full settlement of all his claims in lieu of reinstatement with back wages, as ordered by the Tribunal. Mr. Nag, learned counsel for the Union, after consulting Umesh Prasad Srivastava, who was present in Court, has signified the acceptance of this offer by his client. In view of this, we are not going into the merits of the criticism levelled by the appellant against the approach made by the Tribunal and the High Court.
5. As the offer made by the appellant has been accepted by the respondent, it is directed that the appellant should pay the sum of Rupees seven thousand, within a week from today to Mr. Nag, learned counsel representing the workman concerned in this Court, in full settlement of the claims of Umesh Prasad Srivastava, and obtain a proper discharge for the payment of the said amount. The order of reinstatement with back wages passed by the Tribunal and as confirmed by the High Court in favour of Umesh Prasad Srivastava will stand vacated.
6. So far as the other 25 workmen, who have been admittedly reinstated, are concerned, there will

be a further direction that such of those who are still in the service of the appellant will be paid by the appellant the balance amount of 50 per cent. of the wages which is stated to be due to them for the idle period, within 30 months from today. The manner and the interval regarding payment will be adjusted by the appellant with the workmen concerned. The appeal is disposed of in the manner indicated above. The parties will bear their own costs.

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