

The Binny Limited

Vs

Their Workmen

Civil Appeal No. 1761 (N-L) of 1968

(C.A. Vaidialingam, A.N. Grover, S.N. Dwivedi JJ)

27.04.1973

JUDGMENT

GROVER, J. –

1. This is an appeal by special leave from an award made by the labour Court at Bangalore,
2. The appellant company was substituted as the appellant by an Order made by this Court on February 4, 1970, as it had taken over the business of the Bangalore Woollen Cotton and Silk Mills Company Limited (hereinafter referred to as the "management"). One A. Ramachandran was working in the Roving Section in the Carding Department of the Management's mills. On June 11, 1956, he requested the Mill Manager for grant of leave from June 12, 1956, representing that he wanted the leave as he had to go to his native place settle a land dispute with his brother-in-law. As all leave with wages and casual leave due to him had already been exhausted, the Mill Manager believing his representation, granted him special leave for 8 days without wages or dearness allowance from June 12, 1956.
3. Ramachandran proceeded on leave but he did not go to his village and remained in Bangalore itself. Some members of the Bangalore Silk Mills Employees Association, which was not in any way connected with the Management or the respondent union, had decided to go on hunger strike to get certain grievances redressed, with which the management had no concern. Ramachandran was not even an ordinary member of that Association, but he joined three members thereof and started a hunger strike in front of the Secretariat. News of the hunger strike appeared in a newspaper the 'Deccan Herald' in its issue, dated June 13, 1956. The Management having learnt of Ramachandran having joined the Hunger strike and finding that he had obtained special leave of absence under a false pretext, wrote to him on June 15, 1956, informing him that the leave which had been granted to him was being cancelled. He was directed to return to duty at once and not later than June, 16. That letter was duly received by him on June, 15. Ramachandran However, continued his hunger strike until June 20, and did not join duty. On June 21, 1956, he entered the factory Hospital, Bangalore as a patient for being treated for fasting. On June 28, 1956, he came to the Management's Mills.
4. The decision taken by the Management was that Ramachandran had left the service, terminating his contract under Standing Order 8(ii) of the Standing Orders applicable to the establishment, by absenting himself without leave for 8 consecutive working days. An enquiry was also held on July 2, 1956, in the matter. On a dispute being raised by the workmen on behalf of Ramachandran, the Government of Mysore by an Order, dated July 23, 1964, referred the following points of dispute for adjudication to the Labour Court :

"Are the Management of Bangalore Woolen Cotton & Silk Mills company Limited, Bangalore, justified in terminating the services of Shri A. Ramachandran, Roving Section, Token No. 39, of the Carding Department ? If not, is he entitled to reinstatement with benefits of back wages and continuity of service or to any other relief ?"

5. The Labour Court made its Award on March 26, 1968, in which it held inter alia (i) there was no merit in the contention of the Union that Standing Order 8(ii) was not in operation on July 2, 1956; (ii) the Management had no right or power to revoke the leave already granted to Ramachandran; (iii) that Ramachandran did not go to his village and had obtained leave on a false pretext. The management was justified in not accepting his explanation regarding his absence; (iv) the plea of the Union that Management had acted malafied with the object of victimisation or had indulged in unfair labour practice was not established.

6. The Labour Court ultimately directed reinstatement of Ramachandran and in view of the fact that he had obtained leave on a false pretext, the Labour court awarded a consolidated sum of Rs. 5,000 as back wages and other amenities.

7. It was sought to be contended before us on behalf of the Management that the Labour Court erred in holding that Management had no right to cancel leave which had been granted to Ramachandran. The provisions of Standing Order 8(ii) were fully applicable and since Ramachandran had absented himself for 8 consecutive working days without leave, it should have been held that he had left the company's service without notice, thereby terminating the contract of service. It has further been pointed out that the Labour Court after having found that Ramachandran had obtained leave on a false pretext, fell into a serious error in saying that no question of the Management losing confidence in him arose. It was quite clear that on quite own admission he had acted in manner by which the Management could possibly have no confidence in him for the future. His reinstatement as well as the payment of Rs. 5,000 as back wages, therefore, could not have been ordered according to the well settled law and principles on the point. The last contention seems to be well founded and we do not consider that reinstatement and payment Rs. 5,000 as back wages would have been ordered in the circumstances of the present case. At any rate the appellant has undertaken to pay a sum of Rs. 8,500 ex-gratia to Ramachandran. This amount shall be paid within two months from the date of announcement of this Order. The Award is hereby set aside and the Appeal shall stand disposed of accordingly. There will be no order as to cost.

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