

Shri Ranjeet Mal

Vs

General Manager, Northern Railway, Baroda House, New Delhi and Another

Civil Appeal No. 432 of 1976

(CJI A.N. Ray, M.H. Beg, Jaswant Singh JJ)

10.12.1976

JUDGMENT

RAY, C.J. –

1. In this matter leave was granted on March 30, 1972. Leave was confined to the question whether Union of India is necessary party. Leave was granted because it was contended that there were decisions to support the appellant's contention that the Union of India is not a necessary party. We gave leave to settle this question.
2. The appellant applied under Article 226 in the High Court of Rajasthan. The appellant was an employee of the Northern Railway. He was removed from service with effect from January 2, 1969. His appeal against the order of removal was rejected by the General Manager. The appellant felt aggrieved and filed the application under Article 226. The trial Court rejected the application on the ground that the Union of India was not impleaded.
3. On appeal the Division Bench affirmed the decision of the trial Court and held after referring to two decisions of this Court that the Union of India is a necessary party.
4. Counsel for the appellant contended that the General Manager is the authority to hear these matters regarding the removal, and, therefore, that is the appropriate party. Reliance was placed in support of the contention on the decision Hari Vishnu Kamath v. Ahmed Syed Isak [AIR 1954 Nag 166 : ILR 1954 Nag 209]. That was a case relating to an election petition. The contention was advanced that the Union of India was a necessary party because the Election Commission is required to transmit copies of order of the tribunal to the Speaker of the House and to publish the same in the gazette. The Nagpur High Court rejected the contention that the Union was a necessary party on that ground. This decision can by no stretch of imagination be of any said to the appellant in the present case.
5. Counsel for the appellant relied on the decision of the Punjab High Court in Observer Publications Pvt. Ltd. v. Railway Board, Ministry of Railways, Government of India, New Delhi [AIR 1966 Punj 417 : ILR (1966) 1 Punj 590]. The petitioner in that case made an applications under Article 226 to question the validity of the ban imposed by the Railway Board on the news-weekly "Indian Observer". At page 421 of the report the question of competency of the petition was discussed. The High Court said that it was accepted by both parties that the Railway Board was acting under a "notification issued in this behalf" and the Railway Board was thus invested with all the powers of the Central Government. The High Court held that it was not necessary in that situation for the petitioner in that case to implead the Union Government and it could not be

contended that the petition should fail on that ground. There is no discussion on the question now canvassed here. This decision is also of no aid to the appellant for the reasons indicated now.

6. It cannot be disputed that the appellant was a servant of the Union. It is equally indisputable that any order of removal is removal from service of the Union. The appellant challenged that order. Any order which can be passed by any court would have to be enforced against the Union. The General Manager or any other authority acting in the railway administration is as much a servant of the Union as the appellant was in the present case.

7. The union of India represents the railway administration. The Union carries on administration through different servants. These servants all represent the Union in regard to activities whether in the matter of appointment or in the matter of removal. It cannot be denied that any order which will be passed on an application under Article 226 which will have the effect of setting aside the removal will fasten liability on the Union of India, and not on any servant of the Union. Therefore, from all points of view, the Union of India was rightly held by the High Court to be a necessary party. The petition was rightly rejected by the High Court.

8. The appeal fails and is dismissed. Parties will pay and bear their own costs.

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