

Steel Authority of India, Successor of Bokaro Steel Limited

Vs

Presiding Officers, Labour Court at Bokaro Steel City, Dhanbad, and Another

Civil Appeal No. 1682 (L) of 1978

(A. C. Gupta, N. L. Untwalia JJ)

23.07.1980

JUDGMENT

GUPTA, J. –

The second respondent (hereinafter referred to as the 'respondent'), Shri Rajendra Jha, was employed as a Registration Assistant in Medical Department of the appellant-company. He was appointed by the Personnel Manager of the company and his scale of pay was Rs. 245-440. On two different dates in 1973 the Chief Medical Officer of the Hospital served two charge-sheets on the respondent for alleged acts of misconduct. The Chief Medical Officer also constituted a committee to inquire into the charges. The respondent participated in the enquiry. Agreeing with the finding of the committee appearing from its reports submitted in January 1975 the Personnel Manager of the company found the respondent guilty of the charges and dismissed him from service by his order dated March 1, 1975. On the same day an application was made on behalf of the company before the Labour Court under Section 33(2)(b) of the Industrial Disputes Act seeking approval of the action taken against the respondent. The respondent filed a written objection before the Labour Court contending that :

(a) according to Rule 8 read with the Schedule of the Discipline and Appeal Rules of the company the appointing authority is the disciplinary authority for alleged misconduct which might lead to imposition of major penalties including dismissal from service from all posts below the scale of pay Rs. 500 - 1050;

(b) the Personnel Manager of the company being his appointing authority was the only authority according to the aforesaid rules competent to issue the charge-sheets and constitute the inquiry committee, and therefore the framing of charge-sheets by the Chief Medical Officer and the constitution of the enquiry committee by him were without jurisdiction.

The respondent prayed that the company be directed to reinstate him with full compensation for the period of forced unemployment.

2. During the pendency of the application under Section 33(2)(b) of the Industrial Disputes Act the respondent made an application under Section 33-A of the Act praying for setting aside his dismissal and for reinstating him with consequential reliefs. The two applications were taken up for hearing together by the Labour Court and on the respondents prayer the issue as to the authority of the Chief Medical Officer to frame charges and to constitute the inquiry committee was heard as a preliminary issue. On November 16, 1976 the Labour Court held that the Chief Medical Officer was

incompetent under the rules to frame charges against the respondent and constitute the inquiry committee and accordingly held that the domestic inquiry was defective and invalid. The Labour Court was however of opinion that the company's case could not be dismissed at this stage and that the company should be given an opportunity to adduce evidence in support of the action it had taken against the respondent.

3. From the order of the Labour Court two writ petitions were filed in the Patna High Court, one by the respondent praying for quashing that part of the order which permitted the company to lead evidence in support of its action in dismissing him, and the other by the company questioning the finding that the Chief Medical Officer was not competent to frame the High Court dismissed both the writ petitions. The appeal before us has been filed by special leave by the company challenging the finding made by the Labour Court and approved by the High Court that the Chief Medical Officer of the company had no authority to frame the charges against the respondent or constitute the inquiry committee and as such the procedure followed in dismissing the respondent from service was bad.

4. The only question for decision in this appeal is whether the authority who framed the charges against the respondent and constituted the inquiry committee had the power to do so. Before the Labour Court as well as the High Court the respective cases of the parties were based on the service rules of the appellant-company. It appears that this body of rules which had been approved by the Board of Directors was first published in January 1965. By resolution No. 40 dated October 1, 1964 the Board of Directors approved the Discipline and Appeal Rules which contained provisions concerning acts of misconduct, nature of penalties, authorities competent to impose the penalties, the procedure of imposing minor and major penalties etc. Dismissal from service is a major penalty. Rule 2(f) defines 'Disciplinary Authority' as the authority competent to impose any penalty under these rules as specified in the schedule. The schedule shows that for all posts below the scale of pay Rs. 500 - 1,100, the disciplinary authority is the appointing authority for the purpose of awarding major penalties. It also appears from the schedule that the "empowered authority" meaning the authority to whom powers may be delegated by the appointing authority is competent to award only minor penalties to employees of the scale of pay below Rs. 500 - 1,100. Rule 8 lays down the procedure for imposing the major penalties. The Labour Court as well as the High Court found on a reading of Rule 8 and other provisions of the Discipline and Appeal Rules including the schedule that in the respondent's case it was the appointing authority, namely the Personnel Manager, who was the disciplinary authority and was as such competent to frame the charges and to constitute the inquiry committee and the Chief Medical Officer who exercised these powers in this case had no authority to do so. On a reading of the rules we have no doubt that this is the position. It was contended on behalf of the company that the Chief Medical Officer had the delegated power to frame the charges and constitute the inquiry committee in this case. In support of this contention reliance was placed on resolution No. 7 passed on February 11, 1964 by the Board of Directors of Bokaro Steel Limited of which the appellant-company is the successor. By this resolution, among other things, the Chairman-cum-Managing Director of Bokaro Steel was authorised to sub-delegate his powers, delegated him by the Board to the heads of office under him. An Office Order dated November 5, 1964 was referred to show that pursuant to that resolution the Managing Director had delegated the procedural powers in connection with disciplinary action to the Personnel Manager including the powers to frame charges and constitute inquiry committees in consultation with and on the recommendation of the concerned heads of departments with regard to employees "upto and including the grade of Rs. 400 - 800". At that time the head of the Medical department was called the Senior Executive Medical Officer A subsequent office order was also mentioned of the date June 22, 1966 showing that in supersession of the Office Order dated November 5, 1964 so far as it

related to delegation, of powers, the Managing Director had delegated full powers to all the heads of departments to frame charges and to constitute inquiry committee with regard to employees "up to and including the grade of Rs. 400 - 800 subject to rules and procedures and in consultation with the Personnel Department". It was stated that the post of the Senior Executive Medical Officer was abolished and the new post of the Chief Medical Officer was created in its place as the head of the department.

5. It was pointed out by the Labour Court that the said resolution No. 7 dated February 11, 1964 or the Office Orders of 1964 and 1966 on which the company sought to rely did not form part of the service rules approved by the Board of Directors. The copy of the service rules given to us during the hearing of the appeal includes the various amendments to these rules made from time to time till July 1972 which were approved by the Board of Directors. This copy does not include the aforesaid Office Orders of 1964 and 1966 on which the appellant-company sought to build their case. We therefore, agree with the concurrent finding of the High Court and the Labour Court that the Discipline and Appeal Rules of the company which had been approved by the Board of Directors did not authorise the Chief Medical Officer to frame the charges against the respondent or to constitute the inquiry committee. The High Court and the Labour Court also rightly repelled a contention put forward on behalf of the company built on Rule 20 of the Conduct Rules for the employees which has no application in this case. In the view we have taken it is not necessary to examine the argument advanced by the respondent that the Office Orders of 1964 and 1966 were not enforceable in view of the provisions of Section 9-A of the Industrial Disputes Act, 1947.

6. The appeal is dismissed. On August 14, 1978 this Court while granting special leave to appeal had ordered that the appellant would in any event pay the cost of the appeal to the respondent, accordingly respondent Rajendra Jha will be entitled to his costs.

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