

Naval Kishore (Workman)

Vs

M/s Darbshaw B. Cursetjee's Sons and Others

Civil Appeal No. 4000 (NI) Of 1983

(D. A. Desai, V. B. Eradi, V. Khalid JJ)

22.08.1984

JUDGMENT

DESAI, J. –

1. The appellant, Naval Kishore, was a workman employed by M/s Darbshaw B. Cursetjee's Sons (P) Ltd. For reasons, which we consider irrelevant his service were terminated. That led to an industrial dispute which was referred to the Central Government Industrial Tribunal 2, Bombay. The industrial dispute referred to the tribunal was "whether the action of the respondent-Management directing the termination of the service of the appellant with effect from March 1, 1980 is justified. If it was not so justified, what relief the appellant would be entitled for" ?

2. The Industrial Tribunal after hearing the parties reached an affirmative conclusion that the termination of service of the appellant was not justified. The Tribunal then proceeded to consider what relief should be given to the appellant. It appears that the appellant was employed as Cargo supervisor to work in the Bombay Port Trust. His work permit was cancelled by the concerned authority of the Bombay Port Trust. In the absence of work permit the appellant could not enter the port area and render service as Cargo Supervisor. The Management, therefore, transferred and posted him to work in its office at Bombay. Subsequently the service of the appellant was terminated without rhyme or reason. Now the Tribunal after recording a finding that the termination of the service of the appellant was not justified, proceeded to examine as to what relief should be given and reached a ludicrous conclusion that a compensation in the amount of Rs 15,000 (Rupees fifteen thousand only) would be adequate and would meet the ends of justice. Ordinarily on the finding that termination of service was not justified, reinstatement with full back wages should have been awarded. Instead of it in lieu of reinstatement and back wages a paltry sum Rs 15,000 styled as compensation was awarded to the appellant. Hence this appeal by special leave.

3. In the course of hearing of appeal proposals and counter proposals for settlement were made. Mrs P. Shroff, learned counsel appearing for the respondent straightway conceded that the appellant may be reinstated and the respondent shall take him back in service and assured the Court that the fact that the appellant had to be treated in a nursing home for psychiatric disorder would not be used against him. But we are of the opinion that instead of reinstatement which appellant is unquestionably entitled to with full back wages, in view of the special circumstances of this case, adequate compensation would be in the interest of the appellant and that would be in accord with the finding of the Tribunal. Mr Govindan Nair, learned counsel for the appellant also submitted that in view of certain subsequent developments in the case, it would be in the interest of appellant to receive compensation in lieu of the reinstatement.

4. We, therefore, heard Mr P. Govindan Nair, learned counsel appearing for the appellant on the question of fair compensation. He gave his version as to what would be the just compensation. Mrs P. Shroff, learned counsel for the respondents- Management repeatedly attempted to persuade us that the question of awarding compensation does not arise, as the respondent-Management is willing to reinstate the appellant and the Court may award back wages to him for the period he was kept out of service.

5. Having heard both sides we are of the opinion that in the special facts of this case and the subsequent development we agree with the Tribunal that the compensation would be an adequate relief. Having regard to all the circumstances, we direct that the respondents shall pay Rs 2,00,000 (Rupees two lacs) as and by way of compensation to the appellant. The respondent-Management will be entitled to take credit for the amount of Rs 15,000 paid to the appellant pursuant to the order of the Tribunal and paid under the order of this Court. Therefore, the respondents-Management shall pay Rs 1,85,000 to the appellant within two months from today.

6. We further direct that from the amount herein directed to be paid Rs 75,000 are payable as back wages with interest for the period commencing from March 1, 1980 till today. The payment is Rs 15,000 for the period from March 1, 1980 to March 31, 1980 (sic 1981) and Rs 15,000 for each subsequent year. As the income of the appellant is Rs 15,000 per year and as he had no other income, the respondent is discharged from the liability of deducting income-tax as required by Section 12 of the Income Tax Act, 1961. The balance amount of Rs 1,10,000 (Rupees one lac and ten thousand) shall be deposited by the respondents-Management in the companies the names of which will be supplied by Mr P. Govindan Nair, learned counsel for the appellant within ten days, by way of fixed deposits at the rate of interest not less than 15 per cent. per annum for a period more than three years in the joint names of the appellant and his wife. This amount of Rs 1,10,000 (Rupees one lac and ten thousand) is awarded as future compensation for loss of service at the rate of Rs 15,000 per year for the period of eight years but in order to save the respondents-Management from the liability of paying the interest the payment shall be made as herein directed and the spill over will be for a period of eight years. After the expiry of eight years from today, the amount shall be withdrawn and taken over by the appellant. The respondents-Management is also directed to pay the costs to the appellant which is quantified at Rs 5000.

7. The appeal is disposed of accordingly.

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