

Workmen of Syndicate Bank, Madras

Vs

Government of India and Another

Civil Appeal No. 4377 of 1984

(P. N. Bhagwati, V. Khalid JJ)

29.10.1984

ORDER

1. We are of the view that the ground on which the Government of India has refused to refer the dispute relating to the imposition of punishment of stoppage of three increments on Shri Murugavelu to the Industrial Tribunal is not a valid ground. It would not be right for the Government of India to refuse to make the reference on the ground that the charges of misconduct against the worker were proved during a duly constituted departmental inquiry and penalty was imposed on the worker after following the required procedure. If such a ground were permissible it would be the easiest thing for the management to avoid a reference to adjudication and to deprive the worker of the opportunity of having the dispute referred for adjudication, even if the order holding the charges of misconduct proved was unreasonable or perverse or was actuated by mala fides or even if the penalty imposed on the worker was totally disproportionate to the offence said to have been proved. The Management has simply to show that it has held a proper inquiry after complying with the requisite procedure and that would be enough to defeat the worker's claim for adjudication. Such a situation cannot be countenanced by law. We must, therefore, set aside the order dated April 2, 1981 passed by the Government of India declining to make a reference of the industrial dispute for adjudication to the Industrial Tribunal. We would direct the Government of India to reconsider the question of making reference of the industrial dispute for adjudication without taking into account the aforesaid irrelevant ground which seems to have prevailed with them in declining to make the reference. If the Government of India yet declines to make a reference and the ground on which such reference is declined is improper or irrelevant, it would be open to the appellants to make an application to the Court under this appeal and for this purpose, we give liberty to the appellants to apply. The Government of India will give its decision on the question whether the industrial dispute should be referred or not within 45 days from today.

2. The appeal is accordingly disposed of but with no order as to costs.

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