Anil Kumar

Vs

Presiding Officer and Others

Civil Appeal No. 4692 (NL) of 1984

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

08.05.1985

ORDER

D. A. DESAI, J. -

1. Doaba Cooperative Sugar Mills Ltd., the employer through its learned counsel for this matter adjourned on numerous occasion under the pretext that an amicable settlement may be brought about between the parties. In order not to impose a court's solution we acceded to the request. This exercise has proved fruitless but it has hardly any impact on the outcome of the case.

2. Appellant - Anil Kumar s/o Shri Saldip Lal Mohan was employed, according to him, as Turner Grade I, though all through out he was paid wages as Turner Grade II. His service was terminated on June 19, 1970 on the report of an enquiry officer who had framed the following two charges against him :

> (i) You were given the work of rethreading of spray pipe on March 4, 1970, and the jobs of the repairs of three glands were entrusted to you on March 6, 1970. You neglected your duty and did not execute the above jobs for several days. The delay in the repairs put the factory to a considerable loss.
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> (ii) You wilfully refused the lawful orders of the Assistant Engineer to make 6 Nos. valves for centrifugal machine as per sample on March 18, 1970 and left the place of work thrice in the first half of March 18 1970. This is a serious case of misconduct, negligence of duty and indiscipline.

The enquiry officer submitted his report. This report is produced at Annexure P-10. First paragraph sets out the charges. Then the dates on which the enquiry was held have been set out. Follows the names of witness produced on behalf of the management. Then follows a statement that evidence of the appellant and his witnesses were recorded. After that the report concludes as under :

> His non-obeying of the instructions of his seniors and leaving the place of work without proper permission is a serious case of misconduct, negligence of duty and indiscipline.

There is a forwarding note at the foot of it. This is all the enquiry report. It is this report in a quasi-judicial enquiry which has been accepted by the High Court as full and proper enquiry with full application of mind and a conclusion arrived at on judicious appraisal of evidence. The General Manager who accepted the report could not have been more vague than one could have been.

3. On an industrial dispute being raised, the Government of Punjab referred the dispute to the Labour Court, Jullundur City. The reference was :

> Whether the termination of service Anil Kumar Mohan workman is justified and in order ? If not, to what relief/exact amount of compensation is he entitled.

The Labour Court held that on a perusal of the entire record of enquiry produced by the management, a full opportunity appears to have been given to the appellant to participate in the enquiry and produce his evidence. This according to the Labour Court was sufficient to negative the claim. The Labour Court put section 11-A of the Industrial Disputes Act out of the way by observing that it was introduced in the Act on December 17, 1971 while the service of the appellant was terminated on June 19, 1970 and therefore, he is not entitled to the benefit of Section 11-A. Accordingly, the Labour Court made an award saying that the appellant is not entitled to any relief.

4. The appellant filed a writ petition in the High Court of Punjab and Haryana. The learned Single judge rejected the Contention that the enquiry was not in accordance with the principles of natural justice and rejected the writ petition. After an unsuccessful Letters Patent Appeal, the appellant filed this appeal by special leave.

5. We have extracted the charges framed against the appellant. We have also pointed out in clear terms the report of the enquiry officer. It is well-settled that a disciplinary enquiry has to be a quasi-judicial enquiry officer has a duty to act judicially. The enquiry officer did not apply his mind to the evidence. Save setting out the names of the witnesses, he did not discuss the evidence. Save setting out the names of the ipse dixit that the charges are proved. He did not assign a single reason why the evidence produced by the appellant did not appeal to him or was considered not creditworthy. He did not permit a peep into his mind as to why the evidence produced by the management appealed to him in preference to the evidence produced by the appellant. An enquiry report in a quasi-judicial enquiry must show the reason for the conclusion. It cannot be an ipse dixit of the enquiry officer. It has to be a speaking order in the sense that the conclusion is supported by reasons. This is too well-settled to be supported by a precedent. In Madhya Pradesh Industries Ltd. v. Union of India ((19660 1 SCR 466 : AIR 1966 SC 671 : (1966) 1 SCJ 204), this Court observed that a speaking order will at best be a reasonable and at its worst be at least a plausible one. The public should not be deprived of this only safeguard. Similarly in Mahabir Prasad Santosh Kumar v. State of U. P. ((1971) 1 SCR 201 : (1970) 1 SCC 764) this court reiterated that satisfactory decision of a disputed claim may be reached only if it be supported by the most cogent reasons that appealed to the authority. It should all the more be so where the quasi-judicial enquiry may result in deprivation of lifelihood or attach a stigma to the character. In this case the enquiry report is an order sheet which merely produces the stage through which the enquiry passed. It clearly disclosed a total non-application of mind and it is this report on which the General Manager acted in terminating the service of the appellant. There could not have been a more gross case of non-application of mind and it is such an enquiry which has found favour with the Labour Court and the High Court.

6. Where a disciplinary enquiry affects the livelihood and is likely to cast a stigma and it has to be hold in accordance with the principles of natural justice. The minimum expectation is that the report must be a reasoned one. The Court then may not enter into the adequacy or sufficiency of evidence. But where the evidence is annexed to an order sheet and no correlation is established between the two showing application of mind, we are constrained to observe that it is not an enquiry report at all. Therefore, there was no enquiry in this case worth the name and the order of termination based on such proceeding disclosing non-application of mind would be unsustainable.

7. Once we are satisfied that the order of termination of service is unsustainable, we decline to go into the larger question raised on behalf of the appellant that even though Section 11-A was introduced in the statue after the date of the termination of the appellant, yet when the matter was before the Labour Court, it was obligatory upon the Labour Court to consider whether the punishment was disproportionate to the gravity of the misconduct charged, even though we find considerable substance in this contention.

8. Accordingly, this appeal is allowed and the order terminating the service of the appellant is quashed and set aside and it is hereby declared that the appellant continues to be in service and shall be reinducted in the post where he has working and from where he was removed. He must be paid Rs. 15,000 as and by way of back wages. The appeal is allowed to that extent with no order as to costs.

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