

Workman of Pan American World Airways, K. Ramachandran

Vs

Management of M/s Pan American World Airways and Another

Civil Appeal No. 1629 of 1987

(Ranganath Misra, M. M. Dutt JJ)

14.08.1987

JUDGMENT

RANGANATH MISRA, J. –

1. Special leave granted.

2. Appellant was in employment of the respondent having been recruited on September 1, 1964 and served the employer in various capacities from time to time and was promoted as Unit Manager, Reservation and Ticket Office, from December 1, 1980. Appellant was a member of the Pan American World Airways Employees' Association which was formed in 1965 and came to hold various positions in that union from 1971. When the appellant was promoted as Unit Manager, the management objected to his continuation as a member of the union. He had been given the option by the management of revering back to his former post in case he wanted his union association to continue or to continue in the higher post and keep away from the union. Dispute started over his issue and ultimately the appellant was thrown out of employment in terms of letter dated August 30, 1982 which read thus :

In view of the attitude you have adopted in the last several months, it is not in interest of the company to retain you in service any more, accordingly it has been decided under Section 206 Clauses IV(B) of the Personnel Guide - India for Management/Supervisory and Confidential Staff to separate you from service on payment of one month's salary in lieu of notice. A bank draft in amount of Rs. 7722 covering such salary in lieu of notice is enclosed herewith. Please note, therefore, that your services would stand separated immediately on service of this letter to you.

3. At the instance of the union, the matter was referred for adjudication as an industrial dispute. The maintainability thereof was disputed by the employer and the Labour Court found against the appellant. This appeal by special leave is directed against that order.

4. The points raised in this appeal have been debated before us for quite some time. In the facts of the case, we are of the view that justice would be adequately done to the appellant if he is given the liberty to exercise the option indicated to him at an earlier stage, namely, of going back to the post he held prior to December 1, 1980. The management had agreed at that stage that after he reverted back to that post he could continue his association with the union.

5. In course of the hearing of the appeal, realizing the uncertainties that confront if the litigation is pursued, appellant's learned counsel asked for the benefit of exercise of the option to be restored. Though Dr. Anand Prakash had some hesitation in that being done, we see no reason for that not

being done. The appeal is allowed to the extent it is necessary to quash the order of termination dated August 30, 1982. We direct that the appellant shall report to duty within two weeks from now and in that event he shall be posted in the post he held immediately prior to December 1, 1980 or in any equivalent post. For the period during which appellant has been separated he shall be entitled to receive 75 per cent of the wages. Some amount has been paid under orders of this Court. The respondent shall pay the balance amount within six weeks hence. There would be no order for costs.

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