

Scooters India Limited, Lucknow

Vs

Labour Court, Lucknow and Others

Special Leave Petition (Civil) No. 7437 of 1988

(CJI R. S. Pathak, S. Natarajan JJ)

30.09.1988

ORDER

1. The special leave petition is directed against the dismissal of Writ Petition No. 2305 of 1986 filed by the petitioner in the High Court of Allahabad against the award of the Labour Court in the reference made to it under Section 4(k) of the U. P. Industrial Disputes Act, 1947 (hereinafter 'the Act') in of service of the respondent by an order of reinstatement together with 75 per cent back wages. The respondent too had filed a writ petition i. e. W. P. No. 6769 of 1986 to challenge the Labour Court's award insofar as it provided only for 75 per cent back wages instead of full back wages. The High Court heard both the writ petitions together and by a common order dismissed both the petitions. This special leave petition is directed against the dismissal of W. P. No. 2305 of 1986 and there is no challenge by the respondent against the dismissal of his writ petition W. P. No. 6769 of 1986.

2. Notice was ordered on the special leave petition and the respondent appeared in person and has filed his affidavit in reply. We have heard the learned counsel for the petitioner as well as the respondent and after a careful consideration of the matter we find that the order of the High Court declining to quash the award passed by the Labour Court does not call for any interference at our hands.

3. It is true that the respondent was issued charge memos on three different occasions viz. March 23, 1981, April 30, 1981 and July 21, 1981, and separate enquiries were held in respect of the charges contained in each of the three charge memos. It is equally true that the charges framed against the respondent pertained to acts of major misconduct. All the charges were held proved in the respective enquiries and the Presiding Officer of the Labour Courts has held that the enquiries conformed to the statutory prescriptions and the principles of natural justice and were not vitiated in any manner and as such the findings rendered by the Inquiry Officer and accepted by the Disciplinary Authority were not open to challenge. Even so the Presiding Officer of the Labour Court held as follows :

Having regard to all these circumstances and the reasons given above I would hold that the order of termination was not justified in the circumstances of this case. I would therefore set aside the order of termination of service and direct that the workmen shall be reinstated within one month of the award becoming enforceable. The workmen has unfortunately to blame himself for much of the bad blood which had developed between him and the management and therefore his conduct, motivated by ideals which are not relevant had been far from satisfactory. Insofar as it was rough, bordering on rudeness and with highly exaggerated sense of his duties. In these circumstances it will meet the ends of justice if back wages to the extent of

75 per cent are allowed to the workmen. I would make my award accordingly but there shall be no order as costs.

4. The High Court, while sustaining the award passed by the Labour Court, adverted to Section 6(2-A) of the Act which is analogous to Section 11-A of the Industrial Disputes Act and pointed out that the section confers wide powers on the Labour Court to interfere with an order of discharge or dismissal of a workmen and to direct the interfere with an order of discharge or dismissal ordering the reinstatement of the workmen on such terms and conditions as it may think fit, including the substitution of any lesser punishment for discharge or dismissal as the circumstances of the case may require and as such the Labour Court was well within its jurisdiction in setting aside the order of termination of services of the respondent and instead ordering his reinstatement together with 75 per cent back wages.

5. Mr. Manoj Swarup, learned counsel for the petitioner contended before us that the order of the High Court suffers from three errors viz. (1) the High Court had proceeded on the basis that there was only one order of termination of services passed against the respondent in respect of all the three enquiries whereas an order of termination of services has been passed on the findings rendered in each one of three enquiries; (2) the High Court was in error in taking the view that since the distribution of an offensive pamphlet by the respondent on March 19, 1981 had taken place outside the factory premises para 14.2(13) of the Certified Standing Orders would not be attracted because it refers to distribution or exhibition of offensive handbills, pamphlets etc. inside the factory premises whereas the subversive act complained of would clearly fall under Section 14.2(20) of the Certified Standing Orders; (3) when the Labour Court had found that the enquiry proceedings and been conducted fairly and they were not vitiated in any manner and as such the findings did not call for any interference the Labour Court could not be said to have exercised its powers under Section 6(2-A) of the Act in a judicial manner.

6. Insofar as the first contention is concerned, we do not find any merit in it because the order of termination of service refers only to Clause 14.2(13) of the Certified Standing Orders and not to Clause 14.2(20) of the Standing Orders. With reference to the second contention, the High Court has referred in detail in its order to all the three charge-sheets and the findings rendered on those charges and as such the High Court cannot be said to have committed a serious error by mistakenly stating in its judgment as follows :

The Labour Court after analysing the evidence found that the order of dismissal of the workmen was passed on the basis of the first charge sheet. Separate orders were not passed in regard to the other charge sheets though the record of other charge-sheets also finds place in the dismissal order.

7. The High Court has considered at length the nature of the powers conferred on the Labour Court by Section 6(2-A) of the Act for setting aside an order of discharge or dismissal of a workmen and substituting it with an order of lesser punishment and as such it cannot be said that High Court has failed to consider the facts in their entirety. As regards the third contention, we may only state that the Labour Court was not unaware of the nature of the charges framed against the respondent or the findings rendered by the Inquiry Officer and the acceptance of those findings by the Disciplinary Authority. The Labour Court has observed as follows :

The workmen has unfortunately to blame himself for much of the bad blood which has developed between him and the management and therefore his conduct,

motivated by ideals which are not relevant has been far from satisfactory. Insofar as it was rough, bordering on rudeness and with highly exaggerated sense of his duties. In these circumstances it will meet the ends of justice if back wages to the extent of 75 per cent are allowed to the workmen. I would make my award accordingly but there shall be no order as to costs.

It cannot therefore be said that the Labour Court had exercised its powers under Section 6(2-A) of the Act in an arbitrary manner and not in a judicial manner. The Labour Court has taken the view that justice must be tempered with mercy and that the erring workmen should be given an opportunity to reform himself and prove to be a loyal and disciplined employee of the petitioner company. It cannot therefore be said that merely because the Labour Court had found the enquiry to be fair and lawful and the findings not to be vitiated in any manner, it ought not to have interfered with the order of termination of service passed against the respondent in exercise of its powers under Section 6(2-A) of the Act.

8. For the aforesaid reasons, the special leave petition fails and will stand dismissed. No order as to costs.

9. Before parting with the matter, we would however like to observe that we hope and trust that the respondent will conduct himself in future in such a manner as to prove himself to be a dedicated and worthy employee of a public sector concern. It will not only be in the interests of the respondent but in the interests of all the workers as well as the petitioner company if the respondent and all the workers like him perform their duties in such a manner as to promote the interests and welfare of a public sector concern like the petitioner company.

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