

U.P.S.R.T.C.

Vs

Pukhraj Singh and Others

Civil Appeal No. 3368 of 1998

(S. P. Bharucha, V. N. Khare JJ)

17.07.1998

ORDER

1. Special leave granted.
2. The order under appeal was passed by a learned Single Judge of the High Court at Allahabad. The writ petition filed by the appellant was dismissed because the learned Judge was of the view that it was not a fit case for interference under Article 226 of the Constitution.
3. The writ petition was filed to challenge the order of the Presiding Officer of the Labour Court in an industrial dispute. The question was whether the action of the appellant in terminating the services of the first respondent was legal and valid. The Labour Court came to the conclusion that the action of the appellant in terminating the services of the first respondent was "legal and valid and he is not entitled to any benefit". The Labour Court, however, went on to direct that "on humanitarian ground, it would be proper to engage him in any other post than driver". The Labour Court found that the first respondent had no control over the steering and self-confidence was lacking and that such a driver could not be permitted to play with the lives of the passengers. It would, however, be proper to engage the first respondent in the workshop or any other place.
4. At an earlier stage in the proceedings, we had adjourned the matter to enable counsel for the appellant to find out whether there was any Class III or Class IV post against which the first respondent could be accommodated. He informs us today that there is not, the appellant being overemployed.
5. We have heard learned counsel.
6. Once the Labour Court came to the conclusion that the action of the appellant in terminating the services of the first respondent was justified, legal and valid and he was not entitled to any benefit, we are unable to understand wherefrom the Labour Court drew the jurisdiction to require the appellant to engage the first respondent in a post other than as a driver. It is one thing to hold in a given case that the punishment imposed by the employer is very harsh and to substitute something less. It is altogether different, and untenable, to find that the employer has validly and legally terminated the services of the employee and that the latter is not entitled to any benefit and yet to require the employer to engage the employee in some other post.
7. The appeal is, therefore, allowed and the order of the High Court under appeal and of the Labour Court is set aside. There shall be no order as to costs.