

SUPREME COURT OF INDIA

P.K. Das

Vs.

Presiding Officer, Labour Court, Gauhati

C.A.No.2611 of 2000

(Y. K. Sabharwal, J.)

13.04.2000

ORDER

1. Leave granted.

2. We have heard learned counsel for the appellant and learned counsel for respondent No. 2. Respondent No. 1 is a pro-forma party.

3. The short question is when by an earlier order of the High Court a view was taken by the Division Bench after hearing the parties that the punishment of removal from service was too harsh so far as the appellant is concerned and the matter was remanded to the Labour Court for re-deciding the question of appropriate punishment short of removal under Section 11-A of the Industrial Disputes Act, 1947 and also to consider the question of back wages and when the Labour Court accordingly took the view that punishment of withholding of one increment on grant of full back wages would suffice, whether in a further petition against that order the learned single Judge could have passed an order suggesting punishment of removal and which is confirmed by the Division Bench of the High Court. The impugned order states that the matter requires to be

reconsidered by the Labour Court on three points as detailed below :

(i) The Labour Court would decide the question of punishment and also the question of discipline in the office by taking fresh evidence of gainful employment of workman during the period of termination of his service.

(ii) Secondly, the question of re-employment of the workman is linked with discipline and loss of confidence.

(iii) Thirdly, whether the order of reinstatement can be substituted by payment of lump sum damages.

4. It appears to us that the aforesaid remand order passed by learned single Judge and as confirmed by the Division Bench cannot be sustained in view of the earlier order of the Division Bench wherein the Division Bench

had clearly ruled that punishment of removal from service was too harsh and any other punishment was required to be considered by the Labour Court under Section 11-A of the Industrial Disputes Act, 1947 along with the question of back wages. Consequently, the impugned order of the learned single Judge cannot be sustained on the short ground that the question of imposing punishment of removal was already cleared in favour of the appellant by the Division Bench. The impugned order is therefore required to be modified. The remand order passed by learned single Judge and as confirmed by the Division Bench by the impugned order in W. A. No. 554 of 1996 stands modified as under.

The proceedings remanded to the Labour Court pursuant to the order of the learned single Judge will be confined to the following two questions.

(i) Whether any appropriate punishment short of removal from service could be imposed on the appellant for the alleged misconduct.

(ii) What back wages, if any, should be made available to the appellant on the consideration of the evidence recorded in respect of alleged gainful employment of the appellant.

5. The remanded proceedings will be finally disposed of by the Labour Court, Gauhati within four months from the date of receipt of a copy of this order at its end. The appeal is accordingly partially allowed. No costs.

Appeal partially allowed.