

SUPREME COURT OF INDIA

Dharampal

Vs.

National Engg. Inds. Ltd.

C.A.No.3302 of 1997

(S.Rajendra Babu and S. N. Phukan JJ.)

22.02.2001

ORDER

1. Substitution allowed.

2. The original appellant before us was employed in the establishment of the respondent. He was dismissed in 1990 and approval of the Industrial tribunal was sought for under Section 33(2)(b) of the *Industrial Disputes Act, 1947*. Such approval was granted by the tribunal on 26-7-1993, which was challenged in a proceeding arising under Arts. 226/227 of the Constitution of India before the High Court. Learned single Judge who dealt with the writ petition quashed the order made by the Industrial Tribunal. On further appeal to the Division Bench, the High Court set aside the order made by the learned single Judge and restored that of the Industrial Tribunal. Hence this appeal by special leave.

3. During the pendency of these proceedings, it is brought to our notice, that the appellant had died. The legal representatives are allowed to come on record.

4. The contention putforth before us is that the High Court should not have interfered with the order made by the learned single Judge on the ground that the learned single Judge had no jurisdiction to deal with the matter. There may be force in the contention advanced on behalf of the appellant but that is not the end of the matter as the High Court should have proceeded to find out whether the Tribunal had dealt with the matter appropriately or not.

5. The contention putforth before the Industrial Tribunal is that the disciplinary action taken against the original appellant is based upon the allegation of distribution of Pamphlet which he did as an office-bearer of the Trade Union. That aspect was examined by the Tribunal. The Tribunal was prima facie satisfied that the allegations made in the Pamphlet were not true and correct and on the material before it came to the conclusion that the Inquiry Officer and the Disciplinary Authority had based their conclusions on legal evidence and such conclusion could not be termed as perverse and charge No. 1 made was found fully proved against the original appellant in those circumstances the Industrial Tribunal granted approval to the action of the employer-respondent in dismissing the original appellant-workman.

6. The learned single Judge therefore was not justified in holding that the Tribunal has committed error while granting approval to the action of the employer in dismissing the workman. The appropriate course for the original appellant was to have invoked S. 10 of the Industrial Disputes Act to work out his rights. The Division Bench of the High Court is therefore justified in setting aside the order passed by the learned single Judge and restoring that of the Industrial Tribunal. In the circumstances no interference is called for by us and hence this appeal is dismissed.

Appeal dismissed.