
(2014) 09 AP CK 0057

In the Andhra Pradesh High Court

Case No : Writ Appeal Nos. 1107 and 1110 of 2012

Air India Limited

APPELLANT

Vs

Y.V. Raju

RESPONDENT

Date of Decision : 01-09-2014

Acts Referred:

Citation : (2015) 6 ALD 621

Hon'ble Judges : L.N. Reddy, J;Challa Kodanda Ram, J

Bench : Division Bench

Advocate : V. Uma Devi for K. Srinivasa Murthy, Advocate for the Appellant; M. Surender Rao, Advocate for the Respondent

Judgement

L. Narasimha Reddy, J.—These Writ Appeals have their genesis in the unfortunate air crash that took place on 22.05.2010 at Mangalore Airport, wherein 158 passengers and the entire crew died. Even while the effort to ascertain the reasons for the crash were on, the General Secretary of Air Craft Engineers Association, by name, Y.V. Raju (respondent in W.A. No. 1110 of 2012), conducted a Press Conference on 24.05.2010, wherein he stated that the cause of the accident was the obtaining of clearance for take off of the flight, from a technician of King Fisher Airlines and not that of the concerned authorities of the Air India Limited, the appellant.

2. On the next day, the appellants issued notification to the effect that none of the employees or their organization shall go to press, in relation to the reasons for the unfortunate crash. As a measure of protest to that, the Union called for a flash strike on 25.05.2010. Obviously, enraged by such irresponsible conduct of its employees, the appellants removed quite a large number of them from service depending upon the degree of misconduct. Power under Regulation 13(a) of the Indian Airlines (General Employees) Service Regulations (for short "the Regulations") was invoked, for this purpose. 53 persons, however, expressed their regrets for their participation in the strike. On their submitting letters of apology and furnishing undertakings, they were taken into service.

3. The respondent in W.A. No. 1107 of 2012 was appointed as a Pharmacist in the year 1985 and by 2007, he became Chief Pharmacist in the appellant-organization, and was functioning at Hyderabad. He is the Regional General Secretary of the Air Corporation Employees Union. According to him, their Unit at Hyderabad did not participate in the strike and instead, expressed their solidarity only by demonstrating during the lunch hour, by wearing black badges. He too was removed from service by taking recourse to Regulation 13(a) of the Regulations. He filed W.P. No. 1623 of 2011 challenging the order of removal.

4. During the pendency of the Writ Petition, the respondent made a representation dated 11.05.2011 with a request to reinstate him into service, duly expressing regrets. Acting on the same, the appellants addressed a letter dated 20.06.2011 stating that his case would be considered for reinstatement, subject to withdrawal of the Writ Petition. The respondent, on the other hand, addressed a letter stating that unless the conditions referred in the letter dated 20.06.2011 are specified, it would not be possible for him to withdraw the Writ Petition. The matter did not progress further.

5. Various contentions were urged in the Writ Petition. One of the grounds was that the authority, who passed the order of dismissal, was not competent to exercise the power under Regulation 13(a) of the Regulations. On merits also, contentions were advanced.

6. Mr. Y.V. Raju, who was the instrumental in giving the flash strike, was also removed from service. He filed W.P. No. 492 of 2011.

7. Both the Writ Petitions were heard by the learned Single Judge. A finding was recorded to the effect that it was only the Board of Directors of the appellants, that was competent to exercise the power under Regulation 13(a) of the Regulations and since the orders of dismissal were passed by the Chairman and Managing Director, they cannot be sustained in law. On merits also, the learned Single Judge expressed the view that there is no justification for dismissing the said employees, from service.

8. The appellants filed these two Writ Appeals feeling aggrieved by the common order dated 28.08.2012.

9. A Division Bench of this Court took the view that though the order of dismissal was, passed by the Chairman and Managing Director, it was ultimately ratified by the Board of Directors and in that view of the matter, no illegality is said to have been taken place as regards jurisdiction. The Bench, however, did not deal with the merits of the matter.

10. Both the employees filed Special Leave Petitions before the Hon"ble Supreme Court. The Special Leave Petitions were disposed of by the Hon"ble Supreme Court remanding the matter to this Court. Through a subsequent order of clarification, it was observed that the question pertaining to the competence, vis-a-vis Regulation 13(a) shall be treated as final and the adjudication shall be only

on merits.

11. The matter is argued at length by the learned counsel for the parties after such remand.

12. We have carefully gone through the entire record and kept in view, the order of remand and clarification.

13. At the outset, we express our serious displeasure and disapproval regarding the irresponsible manner in which the Union has acted. When an unfortunate incident of crash of an aircraft of the appellant-organization has taken place, everybody associated with the organization was supposed to be under shock and surprise. Even if there existed any subsisting disputes between the Union and the management, that was an occasion when they were to be buried and all the employees were supposed to act in a spirit of dedication to ensure that the cause of the accident is known and steps are taken to see that such accidents do not occur in future. Instead, the General Secretary, by name, Y.V. Raju, has gone to the extent of holding a Press Conference, indulging in blame game. Though there was sufficient provocation from them, the Management of the appellant organization has simply appealed to its employees and their Union to remain quiet, particularly, when the investigation is in progress. It is indeed shocking that the Union in general, and the General Secretary in particular, have chosen to give a call for flash strike. Words are inadequate to describe the gravity of the misconduct of the concerned. Even the alien enemy would have been sympathetic towards such incident, in the middle of the war also. Unfortunately, there is no dearth of such irresponsible and inhuman employees, though small in number, in our public sector undertakings. Even while enjoying all sorts of benefits, they do not miss any opportunity proper or not, to denigrate their employer and cause disrepute to the organization.

14. The Hon'ble Supreme Court has already upheld the action taken under Regulation 13(a) of the Regulations. If at all there is any category of cases, for which Regulation 13(a) of the Regulations was made, the present case provides an illustration. There cannot be any better occasion to invoke the harsh power than the present one.

15. The respondent in W.A. No. 1110 of 2012 i.e., Y.V. Raju is said to have been attained the age of superannuation. Even if he were to be within the age limits, we would not have granted even the semblance of relief to him. We express our serious disapproval about his conduct. We are also of the view that the possibility of such steps being taken by irresponsible employees of this nature, with a view to indirectly help the other Airlines, which are operating with the competition of the appellant-organization; cannot be ruled out. The appellants would be well advised not only to show the grit, which it has exhibited on the present occasion, but also repeat it with a greater vigour, in future so that the discipline emerges in it. At the end of the day, the immediate beneficiaries of a well run organization are the employees.

16. The case of the respondent in W.A. No. 1107 of 2012, however, stands on a slightly differing footing. He is the Regional General Secretary of a Unit at Hyderabad. They gave a call for protest during lunch and did not participate in the flash strike. Even that was not justified.

17. The appellants have reinstated as many as 53 employees into service, on their furnishing undertaking and execution of certain bonds. The respondent agreed for the same. The over smart step taken by him that landed him in trouble, is that after he received communication from the appellants agreeing for reinstatement, he wanted them to spell out the terms. He proceeded as though he was showing a favour to the appellants by agreeing to be reinstated. Naturally, nobody would be so anxious to reinstate the employee, who wants to dictate terms.

18. Across the Bar, Sri M. Surender Rao, the learned Senior Counsel for the respondent stated that the respondent is willing to abide by such terms as were imposed for the 53 employees, who were reinstated into service.

19. We, therefore, allow W.A. No. 1110 of 2012 and set aside the common order dated 28.08.2012 passed by the learned Single Judge, relating to W.P. No. 492 of 2011. Consequently, W.P. No. 492 of 2011 shall stand dismissed.

20. W.A. No. 1107 of 2012 is disposed of modifying the order passed by the learned Single Judge relating to W.P. No. 1623 of 2011. The appellants herein shall act as per their letter dated 20.06.2011. They shall reinstate the respondent on his furnishing undertaking, as was done by other employees, who were reinstated. The action in this behalf shall be taken within four weeks from today. The respondent shall not be entitled to claim any monetary benefits for the period between the date of dismissal from service and the date of reinstatement. There shall be no order as to costs.

21. The miscellaneous petitions filed in this writ appeals shall also stand disposed of.