

(2003) 05 AHC CK 0036
In the Allahabad High Court
Case No : Contempt Petition No. 4005 of 1999

Akhilesh Kumar Naik (Nayak)	Vs	APPELLANT
K.G. Ramchandran		RESPONDENT

Date of Decision : 06-05-2003

Acts Referred:

Contempt of Courts Act, 1971 — Section 12

Citation : (2003) 5 AWC 4228

Hon'ble Judges : B.K. Rathi, J

Bench : Single Bench

Advocate : K.M. Asthana, for the Appellant; Sandeep Saxena, for the Respondent

Final Decision : Dismissed

Judgement

B. K. Rathi, J.—Request has been made to punish the opposite parties for disobedience of the order dated 30.9.1997 passed by this Court in Civil Misc. Writ Petition No. 32916 of 1997.

2. I have heard Sri K. M. Asthana, learned Counsel for the Petitioner and Sri Sandeep Saxena, learned Counsel for the opposite parties.

3. The Petitioner was worker in the factory. He alongwith four other persons filed the above writ petition, in which the direction was given that if the Petitioners are still working with the opposite parties, they are directed to continue on the posts occupied by them till further orders.

4. It has been argued by Sri K. M. Asthana, learned Counsel for the Petitioner that this order has not been complied with and the services of the Petitioner have been discontinued from 16.10.1999. As against this, the contention of Sri Sandeep Saxena, learned Counsel for the opposite parties is that the order of this Court was immediately complied with and the Petitioner as well as four other Petitioners were taken into service, immediately after the order dated 30.9.1997. That the Petitioner was later on discontinued for gross misconduct.

5. It is contended that the Petitioner misbehaved with the contractor on 5.7.1998 and threatened to kill him. Therefore, show cause notice was issued to the Petitioner, which is Annexure-C.A.-2. An F.I.R. was also lodged on 25.11.1998, which is Annexure-C.A.-3. That the Petitioner also participated in the mass movement of contract labour in the plant premises on 23.11.1998 and 24.11.1998. The report regarding which is Annexure-C.A.-4. That misconduct and indiscipline of the Petitioner was increasing day by day and smooth functioning of the administration became impossible because of the conduct of the Petitioner. The complaint regarding it was also made on 7.10.1999. The copy of which is Annexure-C.A.-6. That the Petitioner also hampered the production of the factory. For these reasons he was discontinued.

6. The Petitioner has filed rejoinder-affidavit denying all these allegations and it is contended that all these allegations are false and has been concocted in order to defeat the order of this Court. That the F.I.R. was investigated and it was found to be false as is clear from Annexure-R.A.-2. The final report was submitted. That Annexure-R.A.-3 show that no case has been registered against the Petitioner. Annexure-R.A.-4 further shows that even as many as twenty two workers have given in writing that the Petitioner is sincere worker and is pressing the other labourers to work. It has been contended that the Petitioner being Secretary of the union he is being harassed.

7. I have considered the arguments. It has also been argued by Sri Sandeep Saxena, learned Counsel for the opposite parties that there were five Petitioners in the writ petition and all of them were taken on service immediately after the order of this Court. That four are still continuing in service and it was the Petitioner alone, who has been removed. That there is no mala fide against him and the opposite parties has not shown any disobedience of the order of this Court.

8. After considering the arguments of the learned Counsel for the parties I find that the impugned order of this Court dated 30.9.1997 was complied with by the opposite parties and the Petitioner was taken into service. The Petitioner was removed again in October, 1998, on the ground of fresh misconduct. It cannot be accepted that once there is order of the Court in favour of Petitioner for continuing him in service when he was removed earlier, he cannot be removed on fresh misconduct. Therefore, there is no question of proceeding in contempt. The question whether the misconduct has been committed by the Petitioner or not cannot be decided in this contempt proceedings. The Petitioner may file fresh writ petition challenging the removal on the ground of alleged fresh misconduct.

9. I do not find any ground to proceed against the opposite parties for contempt. The petition for contempt is dismissed.