
(1996) 01 GUJ CK 0027
In the Gujarat High Court
Case No : S.C.A. No. 8560 of 1995

Ashokbhai Manibhai Patel

APPELLANT

Vs

Jyoti Switch Gears Ltd.

RESPONDENT

Date of Decision : 24-01-1996

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1996) 2 GLR 779 : (1997) 1 LLJ 456

Hon'ble Judges : M.R. Calla, J

Bench : Single Bench

Judgement

1. Heard learned council.

2. This Special Civil Application is directed against the award dated July 10, 1995 passed by the Labour Court, Anand in reference (L.C.A). No. 138 of 1992 (Old Reference (L.C.N.) No. 266 of 1986). Mr. Master, learned Counsel for the petitioner, has submitted that the petitioner was in the service of the respondent company since p 1976. In the year 1985 while the petitioner was working as a labourer he was caught involved in a case of theft of the property of the company, i.e., copper conductor lying on scrap platform. The incident took place on November 24, 1985. On the report of the Security Staff a criminal case was sought to be instituted against the petitioner and on November 25, 1985 vide order Annexure "A" the petitioner was placed under 5 suspension. On November 25, 1985 itself vide document Annexure "B" dated November 25, 1985 the petitioner in his own handwriting admitted that he had taken two copper conductors with silver bolt and that was his serious mistake and he also sought pardon. this letter was followed by letter of resignation on the same date, i.e. November 25, 1985 stating therein that he voluntarily gives up the job and no criminal case be pursued against him so that his reputation is not damaged. In view of the aforesaid letter of resignation, the respondent-Company accepted the resignation on the very date, i.e. November 25, 1985. Show cause notice was set aside and it was further mentioned that he may collect his s dues from the

Company. Yet another letter of resignation on the same date without mentioning any condition as was there in the earlier letter was also given by the petitioner. Thereafter, on November 27, 1985, the petitioner took a somersault and submitted that he had admitted his guilt and had given the resignation under threat and coercion and that he would report back to duty on November 30, 1985. It is also the case of the petitioner that the Company did not pursue the criminal case against the petitioner thereafter and no police action was taken against him. The petitioner thereupon raised the industrial dispute and on reference being made to the Labour Court, the Labour Court, Anand has rejected the Reference on July 10, 1995.

3. Mr. Master appearing for the petitioner has argued that no action could be taken against the petitioner merely on the basis of his admission as admission by itself is not the evidence of the guilt and that could not be the basis to hold the charge to be proved. In this regard Mr. Master placed reliance on *Ashwin N. Parekh Vs. Union of India and Others*, and *Natavarbhai S. Makwana Vs. Union Bank of India and Others*, . In none of these two cases the employee had tendered the resignation. In these cases, the employee had tendered the resignation. In the cases, the charges were taken to be proved on the basis of the admission and the punishment orders were passed without holding any inquiry. There cannot be any quarrel with the legal proposition that admission is the queen of evidence, yet the admission by itself cannot be the sole basis for passing the punishment orders as the admission is capable of being explained. In the facts and circumstances of a given case and even in the cases of admission an inquiry may be necessary before passing the punishment order lest the employee may not get the opportunity to contest the admission on the basis of which the orders are passed. Both these decisions on which reliance has been placed by Mr. Master proceeds on the principle that the admission of the guilt by itself is not the proof against a person who may admit the guilt for reasons more than one, it may be out of threat, coercion, duress, some promise held out to him or to avoid more drastic action and, therefore, in certain cases, it may be necessary to hold the inquiry even if the allegation is admitted. In neither of the two cases, the employee had tendered the resignation. In the case at hand, the petitioner had submitted the resignation. The resignation was accepted on November 25, 1985 and it was, thereafter, that on November 27, 1985 the petitioner chose to contest the admission as having been made under threat on the dictation of the officers of the company and that was a case of forceful resignation. Such disputed questions of fact cannot be gone into in this Court. The matters have been considered in detail by the Labour Court while trying the Reference and the Labour Court has dealt with all these grounds in detail. I do not find any infirmity in the findings recorded by the Labour Court while rejecting the Reference and, therefore, no interference is called for with the findings recorded by the Labour Court.

4. The learned Counsel for the petitioner has submitted that the findings, which have been recorded by the Labour Court, cannot be sustained. But the findings,

which have been recorded by the Labour Court, are findings of fact and none of these findings suffer from any perversity so as to warrant any interference by this Court under Articles 226 and 227 of the Constitution of India.

5. I do not find any merit in this Special Civil Application and the same is hereby dismissed.