
(2001) 02 RAJ CK 0022
In the Rajasthan High Court
Case No : C.W.P. No. 2252 of 1996

Bharatpur Central Co-operative Bank Ltd.	APPELLANT
Vs	
Judge, Labour Court and Another	RESPONDENT

Date of Decision : 07-02-2001

Acts Referred:

Industrial Disputes Act, 1947 — Section 11A

Citation : (2001) 2 LLJ 1035 : (2001) 2 WLC 712

Hon'ble Judges : Gyan Sudha Mishra, J

Bench : Single Bench

Advocate : M.D. Agarwal, for the Appellant; K.C. Sharma and Pradeep Asthana, for the Respondent

Final Decision : Dismissed

Judgement

Gyan Sudha Misra, J.—The petitioner-Bharatpur Central Co-operative Bank Ltd. through its Administrator and Managing Director has filed this writ petition assailing the award passed by the Labour Court, Bharatpur dated June 5, 1995 by which the Labour Court has been pleased to pass an order of reinstatement of respondent No. 2 Shri Tara Singh alongwith the backwages and also to maintain his continuity in service. Unfortunately, the workman-respondent No, 2 Tara Singh died on January 3, 1998 during pendency of this writ petition and in his place legal representatives including his wife were substituted.

2. The whole matter appears to have cropped up as a reference was initiated framing an issue as to whether the Bharatpur Central Co-operative Bank could dismiss the workman Shri Tara Singh by order dated February 24, 1982 and whether the same was legal and valid and in case it was illegal, what relief or reliefs could be granted to him while dealing with this reference, the facts of the case of respondent-workman were related wherein it transpired that Shri Tara Singh was functioning as a Branch Manager of the Bharatpur Central Co-operative Bank which is essentially a post equal to Lower Division Clerk and merely for the sake of the nomenclature it is termed as Bank Manager. One of

the functions of the respondent-workman was to receive the deposits of money from the customers and it is alleged that in course of discharge of this duty, the respondent Shri Tara Singh although realised Rs. 900 in small denomination of 200 and 100 etc. he did not deposit the same in the Bank account and thus misappropriated it. It was further alleged that from 1978 to 1979 while he was functioning as Manager he sold off Bank's form of a denomination of Rs. 100 paisa 95 but the same was not deposited in the Bank account and therefore, he was charged for misconduct. A domestic enquiry was thereafter initiated and in course of the enquiry, a confessional statement is alleged to have been made by the workman Shri Tara Singh in the form of a letter wherein he was alleged to have accepted the charge. On the basis of this confessional statement the charges were held to have been proved in the enquiry. Thereafter a dispute was raised and hence the reference was initiated as stated hereinbefore for adjudication of the question in terms of the reference recorded hereinbefore. The Labour Court extensively examined the case and the counter case of the contesting parties that is the Management and the workman, wherein a finding has been recorded to the effect that the petitioner management did not produce adequate evidence in support of the charge of misappropriation and merely relied upon the letter of confession alleged to have been written by Shri Tara Singh in front of one employee of the Bank-Shri Anil Garg. However, this portion of the evidence was also disbelieved by the Labour Court on the ground that even as per the evidence of Anil Garg, the confessional statement was of a period during which Anil Garg was not in service. What was sought to be emphasised by the Labour Court was that the confessional statement alleged to have been made by Shri Tara Singh could not have been relied upon for two reasons-firstly even if such a statement was recorded, the same was done under duress at the instance of the Management which went into luring the workman by stating that if you do not contest the charge, you will be awarded a lenient punishment and everything would be set right which prompted the respondent to make confessional statement which was tainted and could not have been relied upon having any evidentiary value. Besides this, the witness-Anil Garg who was produced by the Management to establish the veracity of the confessional statement, could hardly be treated as trustworthy, as Anil Garg himself admitted that he was not in service on the date when the confessional statement was recorded and hence he could not have been relied upon as a competent witness to prove that the confessional statement had been recorded without any pressure from the management. It was for these two reasons that the confessional statement was not relied upon by the Labour Court in support of the charge levelled by the management.

3. Mr. Agarwal on behalf of the petitioner however stressed hard to establish that confessional statement was not the only evidence which had been relied upon by the management and in the domestic enquiry there were other evidence also, but he has totally missed that the management at no point of time could prove the charge and that appears to be the sole reason due to which a confessional

statement was elicited by the management to sustain the charge. Even for the sake of argument, if it were to be accepted that the confessional statement was made voluntarily, the statement itself indicates that it was recorded since an assurance was given to the employee that he would be treated leniently from which a reasonable inference can be drawn that since the management was not in a position to produce unimpeachable evidence in support of the charge, it merely thought a way out to get over the situation by eliciting the statement from the workman. Therefore, if the Labour Court has not thought it safe to rely upon this document in order to hold the charge as proved, it is difficult to find fault with the reasoning of the Labour Court. Any other evidence before the Labour Court does not appear to have been in support of the charge and hence, I do not feel impressed with the emphasis of Mr. Agarwal to the effect that there were other evidence available as the entire basis on which the charge is said to have been proved, was the confessional statement which has been rejected totally as untrustworthy by the Labour Court. The finding of the Labour Court therefore, to the effect that the charge of misconduct could not be proved cannot be treated as a perverse finding. It is therefore difficult to interfere with the award of the Labour Court which thought it proper to pass an award of reinstatement of the respondent-workman with back wages.

4. Unfortunately, the respondent-workman is not alive to enjoy the fruits of the award and, therefore, his legal representatives can only have the benefit of the back wages already awarded in his favour by the Labour Court. The respondent-workman had been functioning merely at a pay scale of Rs. 130/-per month, so the entire consequential burden of backwages on the management would not be more than a lakh of rupees and that cannot be said to be exorbitant. This writ petition thus does not justify interference with the impugned award of the Labour Court. Hence, this writ petition stands dismissed.