

(2006) 08 DEL CK 0093
In the Delhi High Court
Case No : WP (C) No. 6591 of 2003

Central Bank of India

APPELLANT

Vs

Shri O.P. Singh and CGIT

RESPONDENT

Date of Decision : 30-08-2006

Acts Referred:

Industrial Disputes Act, 1947 — Section 11A

Citation : (2006) 08 DEL CK 0093

Hon'ble Judges : S.N. Dhingra, J

Bench : Single Bench

Advocate : S.Janani and Deepak Goel, for the Appellant; J. Butcher, for the Respondent

Judgement

Shiv Narayan Dhingra, J.—This writ petition has been filed challenging the award of Industrial Tribunal/Labour Court, New Delhi dated 21.5.2003 whereby the Industrial Tribunal held that the punishment awarded to the respondent by the Appellate Authority was illegal and invalid and workman was entitled for reinstatement with all consequential benefits with full back wages. It is submitted in the writ petition that the Tribunal after holding that the enquiry conducted by the management was not proper and fair, did not give an opportunity to lead evidence by management to prove the misconduct of the respondent workman.

2. The management had specifically requested the Tribunal to give such an opportunity Page-2- WP(C) No. 6591/2003 by making a separate application dated 19.10.1992. This application was made by the management at the initial stage. The Tribunal observed in its award as: ?There is no plea in the written statement of the management seeking permission to lead evidence to prove the charges u/s 11-A of I.D. Act. Hence, the question giving any opportunity to lead evidence to the management would not arise at all in view of the judgment of the Hon"ble Supreme Court in the case of Karnataka State Road Transport Corpn. Vs. Smt. Lakshmiddevamma and Another,

3. The contention of the respondent that the application for adducing evidence

was not made by the petitioner was not made at the initial stage and, Therefore, Tribunal was not bound to record evidence of the petitioner is belied from the record. The reference was made in this case in September, 1991 and proceedings started in 1992. The statement of claim was filed in January, 1992. The application giving permission to record evidence of the petitioner was made in October, 1992 itself. The award was made in May, 2003. It is undisputed that this application remained indisposed and was pending before the Tribunal. The Tribunal at no stage considered this application.

4. I consider that Tribunal, without perusal of the record, observed that no prayer was made by the petitioner to allow the petitioner to lead evidence. The award is liable to be set aside only on this ground that the Tribunal had not allowed the petitioner to lead evidence to prove the misconduct of the workman before it after holding that the enquiry was vitiated.

5. The award is set aside. The matter is remanded back to the Tribunal and the Tribunal is directed to give opportunity to the petitioner to lead evidence to prove misconduct of the respondent/workman and to pass an order after considering the evidence. The petitioner, in case, decides to challenge the award so passed, would be at liberty to raise all issues which petitioner had taken in this writ petition. The Tribunal is directed to complete the entire proceedings and give award Page-3- WP(C) No. 6591/2003 as far as possible within a period of six months from the date of appearance of parties before it.

6. The respondent is permitted to withdraw the amount of Rs. 10,000/- deposited by petitioner in terms of order dated 11.11.2003. Parties to appear before CGIT-I on 18th September, 2006. dusty.