

(2009) 04 P&H CK 0002
In the Punjab And Haryana At Chandigarh

Chitra Talkies

APPELLANT

Vs

Presiding Officer and Another

RESPONDENT

Date of Decision : 02-04-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 04 P&H CK 0002

Hon'ble Judges : Jitendra Chauhan, J; Adarsh Kumar Goel, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Delay condoned.

2. Respondent No. 2 was employed as a workman with the appellant management, which was running a cinema at Amritsar. After rendering service for 16-17 years, his services were terminated without any inquiry. On October 10, 1980, the workman preferred a reference under the provisions of Industrial Disputes Act, 1947 to the Labour Court, Amritsar. Stand of the management was that the workman was negligent in performing his duties. On 2.10.1980 at about 8-00 P.M. when a film was being screened, the workman stopped the film half an hour before the scheduled time. He locked the machine room and left the premises. This created agitation in the public watching the show and also led to stampede. The lock of the door was broken open and screening of the film was resumed.

3. The Labour Court held that the termination was justified as the management had lost confidence in the workman and that case of the management was supported by the judgment of the Hon'ble Supreme Court in The Binny Limited Vs. Their Workmen, .

4. The workman approached this Court under Article 226 of the Constitution.

5. The learned Single Judge held that no domestic inquiry having been held, the

judgment relied upon by the Labour Court for holding that loss of confidence justified termination, was not proper. Reference was made to judgment of the Hon^{ble} Supreme Court in Chandu Lal Vs. Management of Pan American World Airways Inc., , wherein it was held that normal rule was to hold enquiry, in absence of which dismissal could not be justified. Judgment in Binny Ltd. (supra) was held to be distinguishable on facts. Instead of directing conducting of inquiry, the relief was moulded by the learned Single Judge by holding that 28 years had already passed and it was possible that the workman may have been gainfully employed and having regard to his age, which was 58 years, it was just and fair to direct payment of Rs. 2 lacs as compensation to the workman in lieu of his claim for reinstatement and backwages.

6. We have heard learned Counsel for the appellant.

7. It is not disputed that no inquiry was held. Whatever be the allegations, requirement of holding inquiry was mandatory, in absence of which, the management had either to conduct fresh inquiry or prove the charge by leading evidence before the Labour Court. The workman had already rendered 16/17 years of service.

8. In these circumstances, the view taken by the learned Single Judge that the workman is entitled to compensation, cannot be faulted, so as to call for interference in appeal. The amount awarded is not exorbitant, having regard to long service already rendered by the workman.

9. The appeal is dismissed.

10. Learned Counsel for the appellant submits that the cinema has been given on lease and the appellant does not have sufficient funds to pay the amount.

11. In these circumstances, time for payment is extended by six months from today.