

(2009) 03 AHC CK 0200

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 6622 of 1998

Dula Ram Chaudhari

APPELLANT

Vs

The Managing Director, U.P. Co-Operative Spinning Mills
Federation Ltd. and others

RESPONDENT

Date of Decision : 31-03-2009

Acts Referred:

Citation : (2009) 122 FLR 390

Hon'ble Judges : S.U. Khan, J

Bench : Single Bench

Advocate : R.C. Shukla, for the Appellant; Dhananjay Awasthi, Sanjay Awasthi and R.K. Ojha, S.C., for the Respondent

Judgement

S.U. Khan, J.—Petitioner was spinning master in U.P. Co-operative Spinning Mills Federation Ltd. and at the relevant time, he was working at Nagina District, Bijnore. His services were terminated. The termination order has been challenged through this writ petition. When the writ petition was filed 11 years before, petitioner was 53 years of age as disclosed in the affidavit filed in support of the writ petition. Accordingly, by now he must have crossed the age of superannuation. No stay order was granted in this writ petition.

2. I find that both the parties behaved in an unreasonable manner. Accordingly, the only relief, which may be granted to the petitioner, is that of award of reasonable damages.

Annexure-7 to the writ petition is the copy of the charge-sheet dated All the charges are extremely general in nature. The charges are that due to carelessness of the petitioner during the months of June and July, 1996 and from October, 1996 till January, 1997 production was for below the target; that the petitioner did not operate machines in skilled and effective manner, which resulted in fall in production; and that the quality of the production during the above period was also inferior, which adversely affected the production in post spinning department; and that petitioner's supervision over production was not

upto the mark resulting in fall in production.

3. Absolutely, no specific instance of petitioner's carelessness or negligence was mentioned in the charge-sheet. Production depends upon innumerable factors. Role played by the supervisor, working period of the mill, supply of electricity, condition of machines, timely repairing of the defects developed in the machines, timely supply of raw material of proper quality, skill and efficiency of workers are some of the factors responsible for production.

4. The petitioner was at fault inasmuch as he did not reply to the charge-sheet in spite of repeated opportunities. His defence that he was admitted in a hospital in Chandigarh in connection with treatment of his throat is not very substantial.

5. Enquiry officer submitted the report on 15.5.1997, which is Annexure-16 to the writ petition. Within two days, i.e. on 17.5.1997, petitioner submitted his reply to the charge-sheet, copy of which is Annexure-15 to the writ petition. Petitioner could very well submit reply a few days before. It cannot be believed that condition of the petitioner drastically improved in two or three days. Repeated opportunities were granted to the petitioner to file reply and through the last letter/notice, petitioner was required to file reply by 13.5.1997.

6. However, the report of the enquiry officer also leaves much to be desired. It only quotes each of the four charges and against every charge, two lines' report is given, which is to the effect that in respect of the charge Sri Chaudhery did not give any explanation, hence charge is proved. Even in ex parte report some reasons are required to be given and some discussion of the evidence is required to be made.

7. Managing Director/Chairman Mills through order dated 22.5.1997 issued show-cause notice to the petitioner and asked him to submit the reply to the show-cause notice by 2.6.1997 communicated by Assistant Accounts Officer. Copy of enquiry officer report was also annexed along with show-cause notice. Petitioner sent reply to the show-cause notice on 17.7.1997, copy of which is Annexure-18 to the writ petition. At the bottom of which, date 22.7.1997 has wrongly been written by him as in the very first sentence of the reply, it is mentioned that petitioner has received the notice dated 22.5.1997, today on The reply was very short, hardly of 15 lines mentioning that there was a conspiracy against the petitioner and petitioner's reply dated 17.5.1997 had not been considered by I.O. Thereafter, termination order was passed on 14.8.1997, copy of which is Annexure-19 to the writ petition. It was passed by Managing Director of the Federation/Chairman, Mills.

8. The respondents have not filed any counter affidavit. They only filed a short-counter affidavit on 26.7.1999 while it had been prepared on 20.5.1998 and copy had also been served upon learned Counsel for the petitioner on 20.5.1998, In the short counter affidavit, only one point had been raised which was regarding maintainability of the writ petition on the ground that respondent federation is not State. No counter affidavit denying the allegations of the writ petition has

been filed. In the short counter affidavit, it was stated that the respondents kept their right to file detailed counter affidavit reserved. The reserved right was never exercised and respondents forgot to file counter affidavit until hearing of the writ petition.

9. As far as maintainability of the writ petition is concerned, learned Counsel for the petitioner has cited a Division Bench authority of this Court delivered on 6.5.1999 in Special Appeal No. 344 of 1999, Jagveer Singh v. Chairman, Co-operative Textile Mills Sahakari Nagar Bulandshahr and another. In the said authority, it has been held that writ petition against Co-operative Textile Mills as well as Spinning Mills is maintainable. Respondents have filed written submissions and it has been stated in Paras-6 & 7 thereof that services of the petitioner were covered by Centralized Service Regulations, 1994 and not by U.P. Co-operative Societies Employees Service Regulations, 1975.

10. As service conditions are governed by Centralized Service Regulations of 1994, hence writ petition is quite maintainable.

11. Accordingly, in view of the above it is abundantly clear that both the parties behaved in unreasonable manner. Accordingly, writ petition is disposed of with the direction that respondents shall pay damages/compensation of Rs. 40,000/- to the petitioner. Impugned order is modified accordingly.