
(1984) 01 P&H CK 0041
In the Punjab And Haryana At Chandigarh

Freewheels India Ltd.

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 12-01-1984

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Citation : (1984) 2 LLJ 77

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Judgement

S.S. Sodhi, J.—The controversy here lies within a narrow compass. The workman, Ram Kishore, was granted leave from May 19, 1980, to June 17, 1980. He did not thereafter report for duty on the expiry of his leave from June 18, 1980 onwards. On June 26, 1980, however, he reported at the factory gate with a certificate of fitness. According to the workman, he was not allowed by the Management to resume duty, whereas the case of the petitioner is that he was advised to submit his explanation in terms of the Certified Standing Orders. No such explanation was submitted and the workman went away.

2. It appears that a complaint was then made by the workman to the Labour Inspector and on his intervention a letter was addressed to the Management by the workman stating therein that he would resume duty on July 5, 1980, but, again, according to the Management, he did not do so.

3. On July 10, 1980, the workman submitted a demand notice which led to the reference of the dispute in the present case to the Industrial Tribunal u/s 10 of the Industrial Disputes Act, 1947, the matter referred for adjudication being "whether the termination of services of Shri Ram Kishore was justified and in order. If not, to what relief is he entitled".

4. Before proceeding further, one additional fact deserves to be noticed, namely, that on August 16, 1980, the Management wrote to the workman intimating to him that his name had been struck off from the rolls of the establishment with

immediate effect in terms of Clause 13(f) of the Certified Standing Orders of the company.

5. The termination of the services of the workman was held by the Tribunal to be neither justified nor in order and he was consequently held entitled to reinstatement with continuity of service and full back wages. It is this award which now stands challenged.

6. The case of the petitioner rests upon the terms of Clauses 13(d) and (f) of the Certified Standing orders which were admittedly duly certified under the Industrial Employment (Standing Orders) Act, 1946. These Standing Orders are reproduced hereunder:

13(d). A workman will, be deemed to be absent if he fails to attend to his duty unless he has first obtained written permission for such absence from the Head of the Department.

13(f). A workman who absents himself without leave for eight consecutive days or more will be deemed to have left the service of the company without notice thereby terminating his employment and in such a case the employment will be automatically terminated and the company may or may not give any notice informing such termination. If the workman within four days thereafter offers any explanation to the satisfaction of the Departmental head, his absence may be converted into leave without pay and he may also be liable to be posted on similar or any other inferior job carrying lower basic wages or being posted in the training and allocation centre on lower basic rate. If, however, no such explanation is offered within the time aforementioned, the workman will not be entitled to be excused even though his absence may have been due to illness or some other reason whatsoever.

7. From a resume of the facts as set out above, there can be no manner of doubt that the workman remained absent without leave for eight consecutive days and in terms of Clause 13(f) of the Certified Standing Orders, he must be deemed to have left the service of the company and his employment thereby automatically terminated. It was, no doubt, open to the workman to seek conversion of his period of absence into leave without pay in terms of the said Standing Orders, but this could be done only if he offered an explanation for his absence to the satisfaction of the Departmental Head. No such explanation was ever offered or submitted by the workman. The Tribunal was clearly in error in holding that no explanation was required when the workman had been declared fit to join duty by his doctor. A certificate of fitness, without anything more, cannot be said to amount to an explanation for absence without leave as envisaged in the relevant Standing Orders, particularly when the provision therein is that such explanation has to be "to the satisfaction of the Departmental Head". It is now well settled by the authoritative pronouncement of the Supreme Court in *The Buckingham and Carnatic Co.Ltd. Vs. Venkatiah and Another*, , and *National Engineering Industries Ltd. Vs. Hanuman*, , that Certified Standing Orders have statutory force under

the Industrial Employment (Standing Orders) Act, 1946.

8. There is thus no escape from the conclusion that the impugned award was patently erroneous and is accordingly hereby set aside. In view of 15 this conclusion, it is not necessary to go into the other grounds which had also been raised in seeking to impeach the impugned award.

This writ petition is accordingly hereby allowed. There will be no order as to costs.