
(2010) 12 MP CK 0028

In the Madhya Pradesh High Court

Case No : Writ Petition No. 17081 of 2010

Kamlesh Sharma

APPELLANT

Vs

Divisional Manager and Others

RESPONDENT

Date of Decision : 14-12-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Industrial Disputes Act, 1947 — Section 11A, 2A

Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 — Section 2S

Citation : (2011) 131 FLR 294 : (2011) ILR (MP) 703 : (2011) 3 MPHT 481

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Judgement

Rajendra Menon, J.—Petitioner is a dismissed Conductor in the Respondents establishment and has challenged the disciplinary proceedings initiated and dismissal from service on various grounds particularly pertaining to violation of Standard Standing Orders formulated under the M.P. Industrial Employment (Standing Orders) Act. Petitioner is a workman within the meaning of Section 2(S) of the Industrial Disputes Act and has efficacious remedy of raising the dispute u/s 2(A) of Industrial Disputes Act and by intervention of the Labour Court. Wide powers are conferred on the Labour Court to go into the punishment also and in view of the provisions of Section 11(A) of Industrial Disputes Act, Labour Court has full jurisdiction to enquire into factual aspects of the matter including the validity of departmental enquiry conducted and the quantum of punishment.

2. The Karnataka High Court in the case of Mohini K. Vs. General Manager, Syndicate Bank, Manipal and Others, has laid down a principle that when efficacious remedy under the Industrial Disputes Act is available and when benefit of Section 11(A) can be availed of, interference directly by a writ Court is not warranted.

3. In the case of Mohini (supra) it has been so held by the learned Court:

Whether the Tribunal is dealing with an industrial dispute, if it is satisfied that no enquiry has been held or that enquiry held is not fair and proper, or the findings recorded in the domestic enquiry are perverse, the whole issue is at large before the Tribunal. As a corollary, it follows that the power and jurisdiction of the Labour Court in examining the validity of the domestic enquiry far exceeds that of the writ court as it cannot go beyond the point of examining the validity of the enquiry to look into the merits of the charges framed against the employee. To that extent, therefore, the remedy provided by the Act is certainly more comprehensive than that available under Article 226 of the Constitution.

The power u/s 11-A of the Act is also peculiar to the scheme of the Act and may not be exercisable under Article 226 of the Constitution.

4. Keeping in view the aforesaid and finding the efficacious alternate remedy available to the Petitioner, the preliminary objection raised by the Respondents in this regard is upheld.

5. Petition is disposed of with liberty to the Petitioner to take recourse of the remedy available under the Industrial Disputes Act.

6. Petition is accordingly disposed of.