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(1997) 08 P&H CK 0132

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 5729 of 1997

Kuldip Singh and Another — APPELLANT

Vs

Presiding Officer, Labour Court and Another — RESPONDENT

Date of Decision : 28-08-1997

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (1999) 3 LLJ 1399

Hon'ble Judges : Jawahar Lal Gupta, J;B. Rai, J

Bench : Division Bench

Advocate : Gopal Mahajan, for the Appellant; R.S. Mittal, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The petitioners were employed as production assistants, Grade III, with the Punjab Digital Industrial Systems Limited. In May, 1991, the petitioners were ordered to be dismissed from service. They raised an industrial dispute and sought a reference to the Labour Court. The dispute was referred to the Labour Court. By its award dated June 10, 1984, the Labour Court rejected the claim made by the workmen. One of the two workmen filed CWP No. 10156 of 1994. Vide order dated November 9, 1995, the High Court quashed the award and remitted the matter to the Labour Court for fresh decision. However, only petitioner No. 1 appeared before the Labour Court. Petitioner No. 2 (Mr. Kamal Kumar) was proceeded against ex parte. The Labour Court having held that the order of termination is justified, both the workmen have filed the present writ petition.

2. Mr. Gopal Mahajan has contended that the punishment awarded to the petitioners is totally disproportionate to the charges levelled against them and, thus, the award given by the Labour Court cannot be sustained. On the other hand, learned counsel for the respondent-management has contended that the Labour Court having exercised its discretion, the High Court cannot substitute its own opinion for that of the Labour Court.

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3. A perusal of the award shows that the Labour Court had framed the following two, issues:

1. Whether there has been a fair and proper enquiry ?

2. Whether the order of termination of services of the workmen is justified and in order?

Regarding issue No. 1, the Court found that the enquiry officer had wrongly rejected the request of the workmen to take the assistance of Bawa Kartar Singh who was an office bearer of the All India Trade Union Congress. It further found that a copy of the enquiry report had not been supplied. Thus, the procedure as prescribed under Rule 27 of the Punjab Model Standing Order was violated.

Then, the Court proceeded to consider issue No. 2. After examining the evidence led by the parties, the Court has found that the following acts of misconduct are proved on the part of the respondent workmen:

(i) They went on strike and instigated the other workers to do so with effect from May 18, 1990, in violation of the terms of the settlement dated September 19, 1989. This was violative of the provisions of the Industrial Disputes Act and the Model Standing Order.

(ii)They indulged in shouting of filthy slogans against officers of the factory and abused them.

(iii) They threatened the officers and members of the staff of the factory with acts of assault and damage to the property.

(iv) They prevented other workers of the factory from performing their duties and also prevented them from going to work by threatening to use force.

(v) They obstructed the officers and members of the staff of the establishment in carrying out their duties.

4. The Court has further recorded a finding that "the conduct of the delinquent workmen ... was extremely nasty and outrageous ... it was also consistent, persistent and contumacious. They also spear headed the strike by 24 or 25 workers from May 18, 1990, to June 8, 1990, in violation of the 1989 settlement arrived at between the parties u/s 12(3) of the Industrial Disputes Act. This resulted in a loss of about Rs. 3 or 4 lakhs to the management, which was unmerited. On account of this strike, the management also lost its goodwill with the Defence Department of the Government of India who (which) has not given any further orders to the management".

5. On these premises, the Court has found that the misconduct proved against the workmen is grave and serious. Therefore, "it cannot be said that the punishment of dismissal is not commensurate with this grave and serious misconduct".

6. The facts as noticed above speak for themselves. The respondent is a Punjab

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Government undertaking. It had engaged the petitioners to work and not to disrupt the work. The petitioners not only failed to perform their duties but even prevented the other workmen from discharging their obligations. Such persons are not entitled to any sympathy or the grant of any discretiouary relief under Article 226 of the Constitution. The Labour Court has exercised its discretion under the law. The award is neither perverse nor unfair. Consequently, it calls for no interference.

7. No other point has been raised.

8. There is no merit in this writ petition. It is, consequently, dismissed. However, there will be no order as to costs.

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