
(2007) 01 DEL CK 0062
In the Delhi High Court
Case No : WP (C) No. 10 of 2007

L.N. Karamakar

APPELLANT

Vs

The Chairman and Managing Director, Indraprastha Power
Generation Co. Ltd. (IPGCL) and Others

RESPONDENT

Date of Decision : 19-01-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 138 DLT 484

Hon'ble Judges : S.N. Dhingra, J

Bench : Single Bench

Advocate : Mohar Singh and S.S. Barwal, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

Shiv Narayan Dhingra, J.—By this writ petition, under Article 226 of the Constitution of India, the petitioner has approached this Court seeking following reliefs: a. To issue a Writ of Certiorari, or any other appropriate Writ, order of direction, calling for the records pertaining to the proceedings.

b. To award compensation of Rs. 10.00 lakhs as monetary relief to the petitioner of infringement of the Fundamental Rights, Violation of Principles of Natural Justice, Bias and malafide action by the defacto authorities and stepping on his fundamental right to live (dignity, peace, health, work, etc.).

c. To kindly pass an order to quash the illegal enquiry in the interest of natural justice as it was being held fruitlessly to divert the mind from the reality and to create terror and fear on the mind of the petitioner. The petitioner be awarded for his honesty and to save government money which is being digested by the defendants from last 7 years by giving subsidy for 2300 workers whereas there are not more than 1100 workers in the department.

d. To pass an order to initiate enquiry against the defacto authorities(i.e. Sh. N.P.

Singh " GM(HR), Sh. S.K. Thakran " APRO, A.K. Goyal " Dy. Manager (Legal) and Sh. M.S.T. Sai " GM (SandM), etc. who have been absorbed illegally against the rule of absorption to punish them as per law.

e. The petitioners was threatened number of times by these higher officials and the petitioner has the fear for life so kindly pass an order to save any further wrong committed on him. To pass an order of stay in the matter to save the petitioner from further prejudice of the higher officials resulting into termination from service.

f. This is further prayed kindly pass an order for criminal liability and to punish them as per procedure guided by law for fraud and misuse of government money, abuse of administrative power with mala-fide and bad intention imposed wrong punishment on the petitioner.

g. To pass such other and further order or orders as this Hon"ble Court may deem fit and proper in the circumstances of the case, as otherwise loss, harassment, tension, humiliation, victimization and continuous mentally torture, hardship and damages.

2. Briefly stated, the facts are that the petitioner was working with the respondent as a Foreman. He was issued a charge sheet in respect of the incident dated 17.5.2004 since he had indulged in misconduct. An order dated 15.7.2004 was passed for holding disciplinary proceedings against him, placing him under suspension. An enquiry was conducted into the misconduct and the misconduct was proved and vide order dated 1.8.2006, a penalty of reduction by one stage in his time scale was imposed on him for a period one year that he would not earn increments during this period of one year. During pendency of above enquiry, the petitioner indulged into another misconduct and vide order dated 23.8.2006, the management proposed to held an enquiry against him for the following alleged misconduct:

ARTICLE-1

That Sh. L.N. Karmakar, while working as Foreman in I.P. Station during the period 2005-06, with malafide intention and ulterior motive made false complaint against the senior officers of the Company.

ARTICLE-11

That Sh. L.N. karmakar, while working as Foreman in I.P. Station during the period 2005-06, used derogatory and discourteous language to Director (HR) and CVO in his representation dtd. 19.8.05.

ARTICLE " II

That Sh. L.N. Karmakar, while working as Foreman in I.P. Station during the period 2005-06, with malafide intention and ulterior motive sent complaints to superior political authorities with a view to influence the inquiry proceedings initiated against him in canteen contractor's case.

3. The managing director of the respondent/employer on 24th October, 2005 passed following order:

WEHREAS it is proposed to initiate disciplinary proceedings against Sh. L.N. Karmakar, E. No. 27932, Foreman(Turbine), I.P. Station.

AND WEHREAS the prescribed Disciplinary Authority in resp of Sh.L.N. Karmakar is General Manager (HR) in terms of Office Order No. F.2/2/99/AO(Conf.)/27 dtd. 2.4.02.

AND WHEREAS the General Manager(HR) is personally concerned with the charges leveled by the above named CO and in terms of Principles of Natural Justice it would not be proper to allow General Manager (HR) to function as Disciplinary Authority in this case.

4. The petitioner filed reply to the charges and started participating in the inquiry. However, the petitioner considered that instead of participating in the enquiry, it would be beneficial for him to file a writ petitioner and hence this writ petition seeking relief as stated in paragraph one above.

5. A perusal of the writ petition would show that the petitioner had made allegations of improper running of canteen, improper subsidies being provided to the contractor and favor being shown to the contractor by some of the officers. He also mentioned of an incident when after taking food at the canteen, some of the workmen fell ill.

6. I consider that the appropriate remedy for the petitioner is to participate in the enquiry and prove his innocence before the Enquiry Officer. If he has any apprehension of bias, he should express so before the Enquiry Officer/disciplinary authority and he can approach the Court only after the enquiry is over and action is taken against him. No compensation can be awarded to him in a writ petition. If any tortuous liability of respondent has arisen, he should file a suit claiming damages. If he had any grievance against the contractor or against the officials in respect of criminal negligence, he should have lodged an FIR with the police about the same. If no FIR was registered, he was at liberty to approach Commissioner of Police and other higher officials for registration of FIR. Even if that had not helped him, he could file a complaint before the Chief Metropolitan Magistrate directly making all allegations which he considered were relevant. A writ petition under Article 226 of the Constitution of India is maintainable only in case of infringement of legal rights of a person. No legal right of the petitioner has been infringed by initiation of an enquiry. The management has a right to initiate and conduct an enquiry in respect of the misconduct of its employees. The allegations of malafide, bias etc. are commonly made by the workmen against all the employers. Merely because allegations of mala fide, bias etc. are made, Court cannot order stoppage of an enquiry. The petitioner has a right to be heard before being condemned. This right is being given to the petitioner as per his service rules. He has full opportunity to place before the Enquiry Officer his version of facts and his witnesses and prove that what he was saying was

right. A writ Court cannot act as a Court of fact-finding and cannot record evidence to find out whether there was victimization of the petitioner or not.

7. In view of my foregoing discussion, I find no merits in the writ petition. Same is hereby dismissed. No orders as to costs.