

(2010) 06 BOM CK 0040
In the Bombay High Court
Case No : O.O.C.J.A. No. 243 of 2006

Maharashtra General Kamgar Union

APPELLANT

Vs

Haldyn Glass Works Limited

RESPONDENT

Date of Decision : 29-06-2010

Acts Referred:

Citation : (2010) 127 FLR 1001 : (2010) 4 LLJ 449

Hon'ble Judges : R.P. Sondur Baldota, J; D.K. Deshmukh, J

Bench : Division Bench

Advocate : N.M. Ganguli, for the Appellant; V.P. Vaidya, for the Respondent

Final Decision : Dismissed

Judgement

D.K. Deshmukh, J.—Both the appeals are directed against the same order dated June 22, 2004, passed by the learned single Judge of this Court. That order was passed by the learned single Judge in two writ petitions, being Writ Petition Nos. 2416 of 2000 and 6 of 2001. In both the petitions, the same Petitioner had challenged the common order passed in Reference (IDA) No. 817 of 1987. It appears that the employer had initiated departmental inquiry against the total number of 83 employees on similar allegations. Out of 83 employees, 10 employees submitted apology and executed good-conduct bond. Therefore, inquiry against them was not proceeded further. Inquiry was conducted against the remaining 73 employees and their services were terminated on conclusion of the inquiry, holding them guilty of the alleged misconduct. A Reference under the Industrial Dispute Act was made in relation to the termination of 64 employees. Out of 64 employees, all the employees except two employees who are Appellants in the present appeals, settled the dispute with the Management and did not prosecute the Reference. The Reference was prosecuted by only 2 employees. The Industrial Court by its award dated March 30, 1998 held that inquiry was fair and proper. He, however, interfered with the punishment imposed and ordered reinstatement of these two workmen, with continuity of services, but only 25% back-wages, because the Labour Court found that they

were gainfully employed during the intervening period. Two writ petitions were filed; one by the employer and the other by the workers against the said award. The employer challenged the award granting reinstatement with 25% back-wages, and the workers challenged the order for denying 75% back wages. The learned single Judge allowed the petition filed by the employer and set aside award of the Labour Court. Thus, the Reference came to be rejected, and the writ petition filed by the workers was dismissed. These two appeals are filed by the workers, challenging the order of the learned single Judge.

2. The learned Counsel appearing for the Petitioner/workers submitted that the allegations made in the charge-sheet were vague and there is no evidence brought on record which will point out the role played by each of the charge-sheeted employees. According to the learned Counsel, unless the role played by a particular workman is described in detail and it is proved that the said role amounts to misconduct, punishment cannot be imposed. The learned Counsel also submitted that these two workmen have been discriminated against, by the employer in the matter of imposition of punishment.

3. We have heard the learned Counsel appearing for the parties. We have also perused the record. We find that the learned single Judge in his order has referred to the facts in detail, and has also referred to the evidence on record in detail. So far as the first submission is concerned, it is seen that though the workers were served with the charge-sheet, they did not choose to participate in the inquiry. The allegations made against two workmen along with other workmen were extremely serious. In our opinion, after having not participated in the inquiry and not even replying the allegations in the charge-sheet, now the arguments would not lie in the mouth of the workmen that the role played by each of them individually should have been proved by the employer. Perusal of the charge-sheet shows that, so far as charge-sheet dated January 19, 1984 is concerned, it is addressed to one of the workmen by name Eknath and a specific allegation is made in the said charge-sheet that the workman Eknath along with other workmen who have been named in the charge-sheet, including the other workmen Dinanath, pelted stone on the jeep causing damage to the said vehicle and prevented the said vehicle from proceeding further. In support of this charge, witness has been examined by the employer, who has not been cross-examined. Thus, we do not find any substance in the contention of the learned Counsel for the Appellant that specific role played by these two workmen was not proved nor any evidence was led to prove their specific role.

4. So far as submission that in the imposition of penalty two workers were discriminated against, is concerned, as observed above, as out of 83 workers involved, except these two workmen others have settled with the Company; 10 workers were allowed to join duties because they executed good-conduct bond and expressed apology; 64 workers accepted compensation and left the employment, we do not find any element of discrimination in imposing the punishment. Therefore, taking overall view of the matter, there is no need to

interfere with the impugned order, passed by the learned single Judge. There is no merit in the appeals. Therefore, both the appeals are dismissed.