
(1969) 07 CAL CK 0035
In the Calcutta High Court
Case No : Criminal Misc. Case No. 179 of 1969

Mansa Ram Zade

APPELLANT

Vs

Hindusthan Steel Ltd. and Others

RESPONDENT

Date of Decision : 24-07-1969

Acts Referred:

Contempt of Courts Act, 1971 — Section 1, 3, 4

Citation : AIR 1971 Cal 178 : (1971) 1 CALLT 301 : (1971) CriLJ 699 : 74 CWN 114

Hon'ble Judges : R.N. Dutt, J;B. Banerji, J

Bench : Division Bench

Advocate : Kashi Kanta Maitra and Nripen Bhattacharyya, Sumit Kumar Maitra, for the Appellant; Banamali Das, Somendra Chandra Bose and Amitava Dutta for Opposite Party No. 2, for the Respondent

Judgement

This Judgment has been overruled by : K.T. Chandy Vs. Mansa Ram Zade, AIR 1974 SC 642 : (1974) CriLJ 594 : (1974) 29 FLR 132 : (1974) 1 LLJ 278 : (1974) 1 SCC 414 : (1974) SCC(Cri) 210 : (1974) 2 SCR 650

R.N. Dutt, J.—The petitioner was on February 16, 1962, appointed a graduate apprentice in the Hindusthan Steel Ltd. on terms and conditions contained in letter No. Perep/HSL-32(2)/62. Under the terms he was to be on training for two years and thereafter, he would execute a bond to serve the company for a period of five years of which the first two years would be the period of probation. The petitioner was on appointment allotted to Alloy Steel Plant under the Hindusthan Steel Ltd. He was sent abroad for training and on his return he was posted to the Fuel Section of the Utilities Department in the said Plant His performance there--the authorities alleged--was not satisfactory and he was tried in several other departments one after the other and the authorities alleged that he could not prove himself suitable anywhere. Ultimately, on February 21, 1968, the Hindusthan Steel Ltd. informed the petitioner that his performance was not useful for the company and advised him to try for alternative employment

elsewhere and suggesting that he might be released any time at his request. On receipt of this notice the petitioner filed a suit before the Munsif at Durgapur against the company, the Chairman of the company and several other officers of the company. Summons in the suit was served on the Chairman and he filed written statement on October 24, 1968. When that suit was pending, the Chairman of the company terminated the services of the petitioner with effect from the date of the service of the order on payment of 3 months' pay in lieu of notice in terms of one of the clauses of the aforesaid appointment letter. The petitioner thereafter moved this Court alleging that the Chairman has committed contempt of the court of the Munsif at Durgapur. The alleged contemner, the Chairman, has appeared before us and has filed two affidavits.

2. The facts are not in dispute. The terms of employment are also not in dispute. Under the terms of the service of the petitioner, within the contract period of five years the company can terminate the services of the petitioner on three months' notice or on payment of three months' pay in lieu of notice. The Chairman has done this on November 28, 1968. But before this, the petitioner filed a suit before a Munsif at Durgapur against, amongst others, the Chairman for certain reliefs. The termination came when that suit was pending. The petitioner alleges that this act, namely, the act of terminating his services in the company was calculated to obstruct or interfere with the due course of justice or the lawful process of the court in respect of the said suit--before the Munsif at Durgapur. The alleged contemner in his first affidavit filed on July 3, 1969, no doubt, while explaining the circumstances under which he terminated the services of the petitioner, made certain observations to the effect that what he did did not amount to interference with due course of justice or the lawful process of the court so far as that suit is concerned; but the contemner has in the affidavit filed today abandoned that contention and has not said that his action did not amount to contempt of court. But while narrating and explaining the facts and circumstances under which he took the instant action in terminating the services of the petitioner, he expressed sincere regret and tendered unconditional apology and prayed that such apology may be accepted by this Court. That is the position taken up by Mr. Das who appears for the alleged contemner before us. But before we consider whether we should accept the apology, we should first of all see for ourselves if the action terminating the services of the petitioner while his suit was pending before the Munsif at Durgapur does amount to contempt of court or, in other words, does amount to obstruction or interference with due course of justice or the lawful process of the court of the Munsif at Durgapur. True, the petitioner's suit was founded on the letter dated February 21, 1968. True also, that letter did not terminate his services. That was, more or less, in the nature of a previous intimation of what was likely to come and the petitioner was advised to find out an alternative employment. But then, the reliefs, which the petitioner prayed for in the suit, included a prayer for permanent injunction restraining the Chairman and others from giving effect to and/or enforcing the said notice dated February 21, 1968, and a prayer for a declaration that his

confidential character roll was mala fide and not binding and that he was entitled to promotion to the next higher grade. The reliefs further included a prayer for mandatory injunction directing the Chairman and others to give him promotion to the next higher grade after expunging the adverse confidential remarks. What would be the effect of his services being terminated while this suit was pending? True, the services were not terminated in terms of the notice dated February 21, 1968. But, as we have seen, the notice dated February 21, 1968, was a previous intimation of what was about to come and though the suit prayed for a permanent injunction restraining the Chairman, amongst others, to enforce the order of termination, the petitioner's services were, in fact, terminated during the pendency of the suit. It seems that he was more or less nonsuited. Then again, there is no doubt that since his services have been terminated, some of the reliefs, which were prayed for in the suit, would become infructuous. On these considerations, we think that the action of the Chairman in terminating the services of the petitioner on November 26, 1968, does amount to obstruction or interference with due course of justice in the petitioner's suit before the Munsif at Durgapur and so, it amounts to contempt of the said court of the Munsif at Durgapur. We find support in this view in the decision of the Allahabad High Court in *Vijai Pratap Singh Vs. Ajit Prasad and Others*, , subsequently affirmed by the Supreme Court in *Govind Sahai and Another Vs. State of U.P. and Another*, . There a member of the Congress organisation instituted a suit in a civil court for declaration of certain elections to certain organisation bodies of the Congress as void. During the pendency of the suit the plaintiff was expelled from the Congress organisation in pursuance of a resolution of the Congress. It was held in the facts of that case that what was done was meant to non-suit the plaintiff by expelling him from the Congress organisation and to remove the very bed-rock on which stood the edifice of the petitioner's claim. Here in this case also, the petitioner's suit was based on his continuance in the services of the company and because of the termination of his service, he was not only non-suited but the very basis of the suit was gone. We have, therefore, no doubt that in this case the Chairman must be said to have interfered with the course of justice in the petitioner's suit before the Munsif at Durgapur and this amounts to contempt of the said court.

3. Having found this, we come to the question of the acceptance or otherwise of the unconditional apology tendered by the contemner. Mr. Maitra submits that this apology should not be accepted as the contemner has tried to justify his act and the apology is a qualified apology and is offered only if the contention of the contemner is not accepted. Factually, this submission is not correct. We have said that in the first affidavit there is no doubt some attempt to contend that the act of the Chairman did not amount to contempt of the Court of the Munsif, but in the affidavit filed today the Chairman has not taken up that position and nowhere in this affidavit he has taken the position that his action did not amount to contempt of court. What he has done is to narrate and explain the circumstances under which the action was taken and he has said that when he took that action

on the basis of the legal advice given by the company's lawyer at Asansol, who was in charge of the instant suit before the Munsif at Durgapur, he bona fide believed that the advice given by the said lawyer was correct. The question of his bona fides is very material as we will have to decide whether we will accept his apology. The question posed before the lawyer is before us and the opinion of the lawyer is also before us as annexures to this affidavit and the Chairman has said that he acted on this advice bona fide and, on the materials on record, we have no reason to dispute this. The apology, which is tendered, is, as Mr. Das submits, unqualified; but the affidavit explains the circumstances under which the instant action was taken. Mr. Das has also in Court offered unqualified apology and we think that the apology that has been tendered, is sincere and unconditional. We do not, therefore, find any reason not to accept this apology.

4. In the result, we find that the contemner, the Chairman, Hindusthan Steel Ltd., is guilty of contempt of the court of the Munsif at Durgapur. But he has tendered an unconditional apology and we accept that apology and do not impose any sentence on him; but we direct that he do pay the costs of this proceeding to the petitioner which we assess at Rs. 200/- (Rupees two hundred).

5. The Rule is thus disposed of.

B. Banerji, J.

6. I agree.