

(1974) 06 OHC CK 0014
In the Orissa High Court

Md. Yasin

APPELLANT

Vs

Presiding Officer, Industrial Tribunal and Another

RESPONDENT

Date of Decision : 11-06-1974

Acts Referred:

Constitution of India, 1950 — Article 19, 226, 227, 311

Industrial Disputes Act, 1947 — Section 2, 33

Industrial Employment (Standing Orders) Act, 1946 — Section 10, 11, 12, 13, 13A

Citation : (1975) 1 LLJ 100

Hon'ble Judges : B.K. Patra, Acting C.J.; S. Acharya, J

Bench : Division Bench

Judgement

B.K. Patra, Acting C.J.

1. This is an application under Articles 226 and 227 of the Constitution praying for the issue of a writ of certiorari quashing the order Annexure 1 dismissing the petitioner, an employee of the Hindustan Steel Limited, Rourkela from service and Annexure 2, the order passed by the presiding officer of the Industrial Tribunal u/s 33(2)(b) of the Industrial Disputes Act, 1947 (Act XIV of 1947) hereinafter referred to as the I.D. Act) approving such dismissal. The petitioner was a charge-man grade I under the Hindustan Steel Limited, Rourkela and was working in the Pipe Plant. On 19-11-1968, the order Annexure 1 was passed by the General Manager. Annexure 1 so far as material is quoted below.

Hindustan Steel Limited, Rourkela, (Orissa)

* * * Dismissal Order

* * * Whereas the General Manager is personally satisfied that the continuance in employment of Mohammad Yasin, token No. 1007 charge-man, Pipe Plant is not expedient as it is against the interest of security for the Rourkela Steel Plant and has recorded in writing that for these reasons, Mohammed Yasin be dismissed from service under powers vested in him by order 31 of the Standing Orders, you, Mohammad Yasin, are accordingly, here by dismissed from service

with immediate effect.

As you happen to be a concerned workman in Industrial Disputes Case No. I.D. 48 of 1967, one month's wages in accordance with Section 33(2)(b) of the Industrial Disputes Act is being paid to you along with this order.

* * * Sub-Assistant General Supdt. (Mills).

As by the time this order of dismissal was passed, there was pending before the Industrial Tribunal for adjudication a dispute where the petitioner was a party, opposite party No. 2 made an application before the Tribunal for approving the order of dismissal passed against the petitioner. This was registered as Industrial Disputes Case No. 131 of 1968. After notice to the petitioner and hearing the parties, the Tribunal passed on 19-6-70 the order Annexure 2 approving the order of dismissal. Immediately after the order of dismissal was passed and during the pendency of the I.D. Case No. 131 of 1968 before the Tribunal, the petitioner came up to this Court with a writ application (O.J.C. 1606 of 1968-disposed of on 27-7-71) challenging the order of dismissal. A Bench of this Court dismissed it on the ground that no writ is maintainable against a non-statutory company incorporated under the Indian Companies Act. Some time after the order Annexure 2 was passed, the present application was filed for quashing Annexure 2 on the ground mentioned below,

(1) The order is illegal being based on no legal evidence and also due to the fact that no adequate opportunity had been given to the petitioner to defend himself in the said proceeding.

(2) Standing Order 31 is ultra vires of Article 19 of the Constitution as it gives unbridled power to an employer to take away the service of a workman merely on the ground of security which is too vague.

(3) Standing Order 31 is ultra vires and repugnant to the Industrial Employment (Standing Orders) Act, 1946 and the Rules framed thereunder.

(4) The satisfaction of the General Manager that continuance of the petitioner's employment is a security risk is based on inadequate and vague material.

(5) If the order of dismissal is not to be treated as one for misconduct, then the same would amount to an order of retrenchment coming within the purview of Section 2(oo) of the Industrial Disputes Act, 1947 and as the conditions precedent to retrenchment have not been fulfilled the order is violative of Section 25F of the I.D. Act.

(6) The inquiry conducted by the Tribunal was not in terms of Section 33(2)(b) of the Industrial Disputes Act, and as such the order Annexure 2 is unjustified.

2. A counter-affidavit on behalf of opposite party No. 2 Hindustan Steel Limited was filed by its Administrative Officer wherein it is stated inter alia that the Pipe Plant Unit where the petitioner was working is a very vital and important unit from the point of security. On a verification of the character and antecedents of

the petitioner, the Additional District Magistrate of Sundergarh on the basis of a report from the District Magistrate, Howrah and the Deputy Inspector General, I.B. (West Bengal) reported that it is inexpedient and against the interest of the security of the Rourkela Steel Plant to continue the petitioner under employment. Hence by virtue of powers under Clause 31 of the Certified Standing Orders of the Rourkela Steel Plant, the General Manager recorded the reasons and passed the order of dismissal Annexure 1. In regard to the averments made in the petition that before the Industrial Tribunal, the petitioner prayed for summoning two witnesses on his behalf and that the prayer was not granted, it is stated in the counter-affidavit that this allegation is not true and that no such prayer was ever made by the petitioner." It is further stated that the standing orders were duly certified by the certifying authority under the Act (Act 20 of 1946) and the petitioner being a party to the said proceeding, he cannot now allege that the order in I.D. Case No. 131 of 1968 is unreasonable or is violative of the provisions of the Constitution or of the Industrial Disputes Act.

3. The Industrial Employment (Standing Orders) Act, 1946 (Act No. 20 of 1946) (hereinafter referred to as the Act) applies to every industrial establishment wherein 100 or more workmen are employed or were employed on any day of the preceding twelve months. The "certifying officer" under the Act means a Labour Commissioner or a Regional Labour Commissioner, and includes any other officer appointed by the appropriate Government, by notification in the Official Gazette, to perform all or any of the functions of a certifying officer under the Act. Section 2(c). The Act provides for appeal against the order passed by the certifying officer and the "appellants authority"" means an Industrial Court, wherever it exists, or in its absence, an authority appointed by the appropriate Government by notification in the Official Gazette to exercise in such area as may be specified in the notification the functions of an appellants authority under the Act, Section 2(a). Section 2(g) defines "standing orders" to mean rules relating to matters set out in the Schedule. Thus the matters which have to be covered by the standing orders and in respect of which the employer has to make a draft for submission to the certifying officer are matters specific in the Schedule. Section 3 requires the submission of the draft standing orders within six months from the day on which the Act is applicable to an industrial establishment. u/s 4, the standing orders become certifiable if provisions are made therein for every matter set out in the Schedule, and they are found to be otherwise in conformity with the provisions of the Act. By an amendment by Act 36 of 1956, the Legislature has imposed on the certifying officer and the appellate authority the duty to adjudicate upon the fairness or reasonableness of the provisions of any standing orders. This power was not available prior to the amendment and it was not open to the State authorities to examine the fairness of the standing order submitted by the employer. The result of Section 4, as it now stands, is that standing orders have to provide for all the topics specified in the Schedule and they have to be in conformity with the Act. Their reasonableness can be examined by the appropriate authorities and suitable

modifications can be made by them in accordance with their decision. Section 5 provides for the procedure which has to be followed by the certifying officer before certifying such standing orders. The procedure is intended to give opportunity to the employees to be heard before the final order is passed. Section 6 provides for an appeal and Section 7 lays down that the standing orders shall come into operation on the expiry of 20 days from the date on which authenticated copies thereof are sent as required by Section 5(3), or where an appeal is preferred on the expiry of seven days from the date on which the copies of the appellate order are sent u/s 6(2). Section 8 requires the certifying officer to keep a register of standing orders and u/s 9, the said Standing Orders are to be permanently posted by the employer in English and in the language understood by the majority of the workmen on special boards. Section 10 deals with the duration and modification of standing orders. It provides that except by agreement, the standing orders, after they are certified, shall not be liable to modification until the expiry of six months from the date on which they came into operation. Section 10(2) empowers both the employer or the workman to apply for modification in the said standing orders. It would thus be clear that after they are certified, the standing orders have to remain in force for six months unless, of course, they are modified in the meanwhile by consent. After six months are over, an application for modification in the standing orders can be made either by the employer or the employees and the problem would be considered after following the procedure prescribed by the Act for certifying the original standing orders. Section 11 confers the necessary powers of a civil Court on the Certifying Officer and the appellate authority and Section 12 prohibits the admission of oral evidence which has the effect of adding to or otherwise varying or contradicting standing orders as finally certified under the Act, in any Court. Section 13 provides for penalties and the procedure to enforce them. Section 13A deals with the problem of interpretation of the standing orders and Section 13B provides that the Act would not apply to an industrial establishment in so far as the workmen employed therein are persons to whom the Fundamental and Supplementary Rules, the Civil Services (Classification, Control and Appeal) Rules, Revised Leave Rules, Civil Services Regulations, etc., Indian Railway Establishment Code or any other Rules or Regulations that would be notified in this behalf by the appropriate Government, apply. Section 14 confers on the appropriate Government the power to exempt, any industrial establishment from all or any of the provisions of the Act. Section 15 confers on the appropriate Government the power to make rules to carry out the purposes of the Act, and in particular, to provide for the matters covered by Clauses (a) to (e) of Sub-clause (2). By Sub-section (2) the appropriate Government inter alia has the power to prescribe additional matters to be included in the Schedule and to set out model standing orders for the purposes of this Act. Section 15(3) contains a provision that every rule made by the Central Government u/s 15 has to be placed before the House in the manner prescribed by it. The Schedule to the Act contains 11 clauses. Clauses 1 to 10 deal with the several topics in respect of which standing orders have to make a provision and Clause 11 refers to any other matter which

may be prescribed.

This, in brief, is the scheme of the Act.

4. Standing orders have been made in respect of the Rourkela Steel Plant of the Hindustan Steel, Limited in the year 1963, and have been duly published. Standing Order 28 thereof deals with Acts of misconduct. Without prejudice to the general meaning of the term "misconduct" it enumerates 27 acts and omissions which would be treated as misconduct. Standing Order 29 enumerates the penalties for misconduct. They are divided into two categories-major penalties and minor penalties, and dismissal from services is classified as one of the major penalties. Standing Order No. 30 deals with the procedure for dealing with cases of misconduct. Where it is proposed to impose upon workman a minor penalty, he is only to be informed in writing of the allegations made against him and be given an opportunity to make a representation within 48 hours. The representation is to be considered before imposing the minor penalty. For imposition of a major penalty, an elaborate procedure is prescribed. Then follows the impugned Standing Order No. 31 which may be quoted.

31. Special procedure in certain cases

Where a workman has been convicted for a criminal offence in a Court of Law or where the General Manager is satisfied, for reasons to be recorded in writing, that it is inexpedient or against the interest of security to continue to employ the workman, the workman may be removed or dismissed from service without following the procedure laid down in Standing Order 20.

Admittedly, the petitioner has been removed in accordance with Standing Order No. 31.

5. One of the important arguments advanced on behalf of the petitioner is this. Standing orders can be made only in respect of matters enumerated in the Schedule to the Act. There cannot, therefore, be any standing order in respect of a matter not enumerated in the Schedule. The matter covered by Standing Order No. 31 is not covered by any of the items of the Schedule and, therefore, that standing order is invalid. One of the earliest of the series of cases on the subject which was; brought to our notice is *Management of the "Hindu", Madras Vs. Secretary Hindu Office and National Press Employees Union and Another*, . The management of the "Hindu" had framed certain standing orders, one of which provided that every employee shall ordinarily retire from service on his completing the age of 58 years or thirty years of unbroken service, whichever is earlier. The question arose whether such a standing order is covered by any of the items of the Schedule of the Act. Balakrishna Ayyar, J. was of opinion that the expression "termination" in item 8 of the Schedule is wide enough to cover a case of superannuation and that even assuming that it is not so then although the Schedule to the Act enumerates all matters in respect of which it is obligatory to make provision in the standing order, there is no bar to the standing orders making provision for other matters and consequently the

standing order in dispute can be justified. A similar question came up for consideration before a Bench of this Court in *Saroj Kumar Ghosh Vs. Chairman, Orissa State Electricity Board*, and the Court held that where a standing order, certified by the certifying officer contains a clause relating to superannuation, not covered by the schedule of the Act nor by the model standing order, such certification cannot be a valid certification u/s 4 of the Act, and that such certification cannot add enforceability to it merely on the ground that the workers did not challenge such provision before the certifying officer. In coming to this conclusion, their Lordships disapproved the view expressed in *Management of the "Hindu", Madras v. Secretary, Hindu Office and National Press Employees Union* and another (*supra*) that the expression "termination" in item No. 8 of the Schedule is wide enough to cover the age of superannuation. The broader question as to whether after making standing orders in respect of the items covered by the Schedule, it was open to the management to make standing orders in respect of some of the items not covered by the Schedule, did not specifically come up for consideration. A similar matter came up for consideration before the Supreme Court in the *United Provinces Electric Supply Co. Ltd. v. T.N. Chatterjee and Ors.* 1972 2 L.L.J. 9. It related to retirement of certain employees on completion of 55 years of age or after rendering a period of 30 years of service. Provision for such retirement was made Clause 32 of the Certified Standing Orders of the United Provinces Electric Supply Company which had been certified in July, 1951, that is, before Section 4 was amended in 1956. The Court pointed out that neither item 8 nor item 9 of the Schedule to the Act nor para 16 of the model standing orders contained in Schedule 1 of the Industrial Employment (Standing Orders) Central Rules, 1946 covers termination of employment on attainment of age of superannuation. The model standing orders framed by the Central Government and by the Government of the State of Uttar Pradesh did not contain any clause relating to the age of retirement or superannuation. It was argued before their Lordships that if despite it the certifying officer had certified the standing order as reasonable, its validity cannot be questioned. This argument was negated on the ground that when in 1951 they were so certified, Section 4, as it then stood, specifically provided that it shall not be the function of the certifying officer or appellate authority to adjudicate upon the fairness or the reasonableness of the provisions of any standing orders. The question, whether after the amendment of Section 4 which now casts a duty on the certifying officer to adjudicate upon the fairness or reasonableness of any standing order, it is open to him to certify as fair and reasonable a standing order relating to a matter not covered by any of the items of the Schedule, was left specifically undecided by their Lordships in that case, because, by an amendment of the Schedule in the State of Uttar Pradesh an item was added providing for the age of retirement and superannuation.

6. It may be recalled that Sub-section (2) of S 3 the Act lays down that provision shall be made in the draft standing orders for every matter set out in the Schedule which may be applicable to the industrial establishments, and where

model standing orders have been prescribed, shall be, so far as is practicable, in conformity with such model. What this provision precisely means has been explained by their Lordships of the Supreme Court in *Rohtak and Hissa Districts Electric Supply Co., Ltd. v. State of Uttar Pradesh and Ors.* 1966 II L.L.J. 3301. The U.P. Government had, by adding Clause 11B to the Schedule, referred to items of welfare schemes such as provident fund, gratuities, etc. Their Lordships held that if the appropriate Government adds an item to the Schedule, it may, in some cases, be permissible to the certifying authorities to say that having regard to the relevant factors, no provision need be made for some of the items thus added. It was observed in paras. 16 and 17 thus:

Thus the true position appears to be that u/s 3(2) of the Act the employers have to frame draft standing orders and they must normally cover the items in the Schedule to the Act. If, however, it appears to the appropriate authorities that having regard to the relevant facts and circumstances, it would be unfair and unreasonable to make a provision for a particular item, it would be competent for them to do so; but the employer cannot insist upon adding a condition to the "standing order which relates to a matter which is not included in the Schedule.

Then in regard to the conformity with the model standing orders, the position is clear, Section 3(2) of the Act specifically requires that the standing orders shall be, as far as impracticable, in conformity with the model. These words indicate that the appropriate authority may permit departure from the model standing orders if it is satisfied that insistence upon such conformity may be impracticable. This fact also shows that in a given case, the appropriate authority may permit departure from the model standing orders and may come to the conclusion that one or the other of the conditions included in the model standing orders may not, for the time being, be included in the standing orders of any particular establishment.

7. No decision of the Supreme Court has been cited before us which has specifically laid down that after the amendment of Section 4 of the Act in 1956, it is not open to a certifying officer, even if he holds as fair and reasonable, to certify a standing order, if it relates to a subject not covered by any of the items in the Schedule. The compulsion of the statute appears to be that the standing orders shall make provision for such of the matters set out in the Schedule with the additional matters prescribed by the Government as are applicable to the industrial establishment in question. If any of the matters so set out in the Schedule are applicable to the industrial establishment in question, the employer is bound to make provision for them. It does not mean that provision cannot be made for any additional matters at all, provided the provision so made is in the opinion of the certifying officer fair and reasonable. The Act is not intended to cover or provide for all contingencies and all matters which may be applicable to each and every industrial establishment in the country. Certain important matters which are more or less of general application to all industries are set out in the Schedule. The appropriate Government is also given the discretion having

regard to the special conditions of the industries within its jurisdiction to add further matters to the list contained in the Schedule. All such matters may be shortly described as compulsory matters. A direction or mandate not to do any other things. Take the case of an industrial establishment like the Rourkela Steel Plant. In such an establishment, the management had been reliably informed that there is an employee who having regard to his past history and association is likely to indulge in activities which would amount to sabotage. The management should have the power to remove such a person from the establishment because otherwise the security of the entire plant and establishment is at stake. Let it be assumed for the present that there is no specific entry in the Schedule to cover such a case. But if provision is made in the standing orders incorporating therein Standing Order No. 31, which is impugned in this case, and the certifying and the appellate authorities being satisfied about the fairness and or reasonableness of the provision certified the same, can it be said that the standing order is bad merely because there is no specific provision in the Schedule? It appears to us that it would not be reasonable to take such a view, We need, not, however, in the present case decide this question because in our opinion, item No. 8 of the Schedule is wide enough to cover the matter enumerated in the Standing Order No. 31.

8. Item 8 of the Schedule runs thus:

8. Termination of employment, and the notice thereof to be given by employer and workmen.

For facility of reference, we may also extract item No. 9 which is-

9. Suspension or dismissal for misconduct and acts of omissions, which constitute misconduct.

Manifestly, items 8 and 9 are meant to apply to two different situations. While item 9 has reference to specific acts of misconduct as explained and enumerated in Standing Order No. 28, item 8 is designed to meet cases of termination of employment, otherwise than for misconduct.

9. It is argued by Mr. Palit that since in the impugned Standing Order 31, the expressions used are "removed" or "dismissed" and as by the impugned order Annexure 1, the petitioner has been dismissed, the dismissal must be referable to the dismissal for misconduct covered by item No. 9, and, therefore, since the elaborate procedure prescribed in Standing Order No. 30 has not admittedly been followed in this case, the order of dismissal is bad and consequently the order of the Tribunal (Annexure 2) approving the order of dismissal is liable to be quashed. All cases of dismissal for misconduct bring about termination of the employment. But the converse is not true. All cases of termination of employment do not necessarily mean dismissal for misconduct. It is clear on a perusal of items 8 and 9 in the Schedule that item 8 is designed to meet situations where termination of employment of a workman is secured otherwise than by dismissal for misconduct. It is only where a workman is sought to be

dismissed for misconduct that the elaborate procedure prescribed in Standing Order No. 30 has to be followed. That procedure is not meant to be followed in a case of termination of employment simplicitor. Reference in this connection may be made to a decision of the Supreme Court in *Workers employed in Hirakud Dam v. State of Orissa and Ors.* 1997 II L.L.J. 224, where construing paragraph 11 of the Public Works Department Code, their Lordships held that the word "dismissed" as used in paragraph 11 not only denote termination of services of employee by way of punishment but it covers also other cases of termination even before completion of work.

10. It is then argued that if powers are given to an employer to terminate the services of an employee otherwise than for misconduct it would seriously undermine the security of service of a workman in an industrial establishment and consequently Standing Order No. 31 must be held to be ultra vires the Industrial Disputes Act and the Industrial Employment (Standing Orders) Act, 1946. There is no substance in this contention. The Act itself in a Schedule makes provision for termination of employment otherwise than for misconduct. Whether a particular standing order in respect of a subject-matter covered by item No. 8 of the Schedule is fair or not is left to be determined by the certifying officer. The workmen are parties to the certification proceedings. If they are aggrieved by the order passed by the certifying officer it is open to them to file an appeal. There is also provision in the Act for modification of Standing Orders at the instances of either the employer or the workmen after the lapse of a particular period. Without availing oneself of all these remedies, it is not open to a workman where his services are terminated in pursuance of a certified standing order to turn round and contend now that the particular standing order is unfair. Our conclusion, therefore, is that item No. 8 "termination of employment" is wide enough to cover a case of removal on ground of security and that consequently the impugned Standing Order No. 31 is in conformity with the Schedule.

11. It is then pointed out that the standing order is not in conformity with the model standing order as it is required to be by Sub-section (2) of Section 3 of the Act. Conformity, in our opinion, cannot by any stretch of imagination, be equated with identity. When one thing is required to conform to another, it simply means that the former should be formed according to the pattern furnished by the latter. When, therefore, Sub-section (2) of Section 3 states that the draft standing orders, shall be, so far as is practicable, in conformity with the model standing orders, it simply means that the model standing orders, furnish the pattern which the draft should try to resemble or imitate. It cannot mean that the draft should copy the model verbatim. The use of the words "so far as is practicable" also points to the same result. Dealing with the question, the Supreme Court in *The Associated Cement Co. Ltd. v. P.D. Vyas and Ors.* 1960-I L.L.J. 563, stated in para 7 thus:

The question which then arises is: was it or was it not open to respondent 2 to consider whether the draft submitted by the appellants should not conform to the

model standing order in respect of the topics with which we are concerned in the present appeal ? The answer to this question must obviously be in the affirmative. It was not only open to respondent 2 to enquire into the matter but it was clearly his duty to do so before holding that the draft orders were certifiable u/s 4. Now such an enquiry necessarily involves the consideration of the question as to whether it would be practicable to insist upon conformity with the model standing order in regard to the matters in dispute. If respondent 2 was satisfied that it would be practicable to insist upon such conformity it would be within his competence to make the suitable modifications in the draft. If on the other hand, he took the view that it would not be practicable to insist upon such conformity he would, despite the disparity between the model and the draft, treat the draft as certifiable.

(The underlinings are ours).

The Supreme Court made these observations in an appeal arising out of a writ petition filed by the management against the orders passed by the appellate authority u/s 6 of the Act, making certain modifications in the draft standing orders. We, in this case are not at that stage. Here we are dealing with a case where the standing orders have become final and without resorting to any of the remedies allowed by the Act to get the impugned standing orders modified, the petitioner is contesting its validity in a collateral proceeding.

12. The standing orders are the conditions of service prescribed for the employees of the Hindustan Steel Limited and they are binding on the employer and the employees. The Hindustan Steel Limited which is a corporation is not a department of Government nor are its servants, holders of civil posts under the State. Its employees are not entitled to the protection under Article 311 of the Constitution. (See *Dr. S.L. Agarwal v. The General Manager, Hindustan Steel Ltd.* 1670 II LLJ. 499. That is the reason why when the petitioner came up to this Court in the first instance in O.J.C. 1606 of 1968 challenging the legality of the order of dismissal passed against him and praying for quashing the same, his application was dismissed as not maintainable. By that time, however, there was pending before the Industrial Tribunal an application made by the employer u/s 33(2)(b) of the Industrial Disputes Act for approval of the order of dismissal. After the Industrial Tribunal passed an order approving the order of dismissal, this writ application has been filed questioning the propriety and legality of the order passed by the Tribunal, on the ground that the inquiry conducted by the Tribunal was not in terms of Section 33(2)(b) of the Industrial Disputes Act, and that reasonable opportunity was not given to the petitioner to defend himself. The petitioner stated that he prayed for summoning of two witnesses, but his prayer was not granted. This allegation was denied by the opposite party No. 2 and the petitioner has not taken any steps to substantiate this allegation. In respect of his other objection that the inquiry conducted by the Tribunal was not in terms of Section 33(2)(b) of the Industrial Disputes Act, it is sufficient to refer to the decision of the Supreme Court in *Mckenzie and Co. Ltd. Vs. Its Workmen*

and Others, . Dealing with the scope of Section 33 of the ID. Act, their Lordships observed in para 16 thus:

That section does not confer any jurisdiction on a Tribunal to adjudicate on a dispute but it merely empowers the Tribunal to give or withhold permission to the employer during the pendency of an industrial dispute to discharge or punish a workman concerned in the industrial dispute. And in deciding whether permission should or should not be given, the Industrial Tribunal is not to act as a reviewing Tribunal against the decision of the management but to see that before it lifts the ban against the discharge or punishment of the workmen the employer makes out a *prime facie* case. The object of the section is to protect the workmen in pending industrial disputes against intimidation or victimisation. As said above principles governing the giving of permission in such cases are that the employer is not acting *mala fide*, is not resorting to any unfair labour practice, intimidation or victimisation of the principles of natural justice. Therefore, when the Tribunal gives or refuses permission it is not adjudicating an industrial dispute, its function is to prevent victimisation of a workman for having raised an industrial dispute.

13. The dismissal of the petitioner is based on Annexures 3 and 4. The petitioner is a resident of West Bengal. On necessary verification being made by the Additional District Magistrate, Sundergarh, the District Magistrate, Howrah reported after due consultation with the Deputy Inspector General, Intelligence Bureau, West Bengal that the petitioner was not a fit person for employment. On receipt of this report from the Additional District Magistrate, Sundergarh, he was requested by the management to obtain details. The A.D.M, addressed the District Magistrate, Howrah, but the latter replied that apart from his views regarding the undesirability of employing the petitioner, further details about him could not be disclosed in public interest. On receipt of these reports, the matter was put up before the General Manager who passed the impugned order of dismissal. Annexures 3 and 4 were duly considered by the Industrial Tribunal. The petitioner who was opposite party in the proceeding before him, filed a counter wherein he alleged that his dismissal by the manager was arbitrary, illegal and was in violation of the principles of natural justice. He did not allege any *mala fides* against the General Manager. After considering all the circumstances in the case, the Tribunal was of the view that there was material before the General Manager on the basis of which he was entitled to come to the conclusion that the petitioner was a security risk and that in such circumstances, the order passed by him cannot be said to be either arbitrary or unreasonable. No exception can therefore, be taken against the order Annexure 2 passed by the Tribunal.

14. In the result, we do not find any merit in this petition which is accordingly dismissed. In the circumstances we make no order as to costs.

S. Acharya, J.

15. I agree.