
(2013) 12 AHC CK 0066
In the Allahabad High Court
Case No : Writ-C No. 31464 of 2000

Mohd. Idris

APPELLANT

Vs

Presiding Officer, Industrial Disputes Tribunal and Another

RESPONDENT

Date of Decision : 19-12-2013

Acts Referred:

Citation : (2014) 141 FLR 491

Hon'ble Judges : Pradeep Kumar Singh Baghel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Pradeep Kumar Singh Baghel, J.—The petitioner is a workman. By way of this writ petition he has challenged the award of the Industrial Tribunal (1), U.P., Allahabad dated 24th September, 1999 passed in Adjudication Case No. 69 of 1995, whereby petitioner's dismissal has been found to be justified. The foundational facts are that the petitioner was initially engaged in the year 1967 as a Labourer in GEC Alstom India limited, Naini, Allahabad (for short, "the company"), the respondent No. 2 herein, where he worked in the Coil Winding (Transformer) Department. He was promoted to the post of Machine Operator (mechanic co-operator) and thereafter he was further promoted to the post of Fitter and transferred to the Maintenance Department. It is stated that he had been the General Secretary of the Workers Union.

2. The petitioner was suspended on 10th March, 1994 on the ground of serious misconduct and a domestic enquiry was initiated against him. In the enquiry, the petitioner was given opportunity to produce the witnesses and he also cross-examined the witnesses of the Management of the company. The Enquiry Officer found that all the charges leveled against him were proved, on the basis of which the petitioner was dismissed from service with effect from 19th September, 1994. Feeling aggrieved, the petitioner raised an industrial dispute, which was registered as Adjudication Case No. 69 of 1995, before the Industrial Tribunal (1), U.P., Kanpur (for short, the "Tribunal").

3. The petitioner's case before the Tribunal was that on 9th March, 1994 at 7.45 hours he along with other workers came to the Sheetal's tea shop on Mirzapur Road as per the instruction of the Department Union Representative Sri K.K. Choudhary, who had called the workmen of the Maintenance Department of the company at the said place to announce his decision about working on roster duty. But Sri K.K. Choudhary did not turn up at the appointed time and the workmen were waiting for him. In the meantime, Sri H.K. Dixit, immediate past Secretary of GEC Mazdoor Union, came in a car and enquired from the workmen why they had gathered at the gate of the company on a holiday, upon which he was apprised of the fact. Since Sri K.K. Choudhary had not reached there, the maintenance workmen requested Sri H.K. Dixit to advise them in the capacity of the past Secretary of the Union what they should do. In the meanwhile, a police jeep entered the gate at 08.15 hours and the police force came out. The Station Officer of the Police Station took Sri H.K. Dixit, Mohd. Idris (the petitioner) and Sri V.K. Dixit (brother of Sri H.K. Dixit) to the police station. Present dispute arose in respect of the roster duty, which was introduced for the first time with effect from 9th March, 1994. There was no untoward incident at the main gate of the company. However, the allegation of serious misconduct was leveled against the petitioner and he was dismissed from service.

4. Case of the Management was that on the said date the workmen of the Maintenance Department had gathered at the main gate with the intention to work in the company on roster duty. The Management was trying to introduce the duty shifts in the Maintenance Department on 9th March, 1994, which was a weekly off day. However, the petitioner (immediate past Executive Member of GEC Mazdoor Union) along with Sri H.K. Dixit (immediate past Secretary of GEC Mazdoor Union) and Sri V.K. Dixit (brother of Sri H.K. Dixit) were present at the main gate. Sri H.K. Dixit had come in his car, which he had parked outside the factory gate. It is alleged that he was accompanied by two unknown persons with guns. All the aforesaid three persons prevented the willing workmen of the Maintenance Department from entering in the company to perform their duty. It was stated that three senior officers of GEC Company, namely, Sri D. Ghosh, Senior Personnel Manager, Mr. M. Gopinathan, Manager Administration, and Mr. S. Sen, Manager Maintenance, came to the company and they counseled Sri H.K. Dixit not to prevent the willing workmen from entering the main gate and also not to obstruct them from performing their duties. However, the petitioner and Sri H.K. Dixit did not allow the willing workmen to enter into the premises and they created law and order problem by threatening the workmen. Some of the workmen ignoring their call tried to enter into the premises. Thus, there was an atmosphere of violence. The Management called the police, which took away the petitioner and Sri H.K. Dixit from the main gate of the company.

5. The Tribunal on 19th April, 1999 passed an order, wherein it found that the domestic enquiry was conducted by the Enquiry Officer in accordance with law and the rules of the natural justice were not violated. The preliminary issue was accordingly decided in favour of the employer and against the workman. A copy

of the order dated 19th April, 1999 is on the record as Annexure-6 to the writ petition. The Tribunal by the impugned award dated 24th September, 1999 decided the adjudication case and found petitioner's dismissal to be justified. Aggrieved by the said decision of the Tribunal, the petitioner has filed the present writ petition.

6. A counter-affidavit has been filed on behalf of the employer-respondent No. 2. The stand taken in the counter-affidavit is that the punishment of dismissal was rightly passed by the company looking into the seriousness of misconduct of the petitioner. The petitioner had participated in the domestic enquiry and was given full opportunity of hearing therein.

7. I have heard Sri S.P. Srivastava, learned Counsel for the petitioner, and Sri V.R. Agarwal, learned Counsel for the respondent No. 2-company.

8. Learned Counsel for the petitioner submits that the Enquiry Officer has illegally held the petitioner guilty by ignoring all the material evidence available on record. The petitioner was not guilty of the charges leveled against him. No other submission was advanced by the learned Counsel for the petitioner.

9. Learned Counsel for the respondent No. 2 submits that in the enquiry it was found that the petitioner was present on the road leading to the factory/company's gate and was standing on the path of willing workmen, who wanted to attend their duties.

10. I have considered the rival submissions advanced by the learned Counsel for the parties and perused the record.

11. The petitioner was served with a charge-sheet. There were serious charges of misconduct against him. The Management had examined four witnesses, who had stated about the course of incidents. The Enquiry Officer has recorded his finding that the petitioner was identified by the witnesses. He threatened the workmen not to enter in factory. In fact, the finding has been recorded regarding the major role played by the petitioner in creating the troubles. The witnesses of the Management were cross-examined. The statements of the workman's witnesses have been found to be unbelievable by the Enquiry Officer for the cogent reasons. All the witnesses of the workman admitted that he was a part of the crowd, so his presence at the gate has been established. The Tribunal has found that domestic enquiry was fair and proper.

12. Learned Counsel for the petitioner could not satisfy the Court about the perversity of said findings. There is no pleading in the writ petition that the findings of the Tribunal on the preliminary issue suffer from any illegality.

13. The Tribunal in its order dated 19th April, 1999 has recorded that the representatives of the workmen have not submitted that the Tribunal should reappraise the evidence recorded in the domestic enquiry and arrive at an independent conclusion thereof. The Tribunal has also recorded that the representatives did not argue that the findings and the conclusion of the Enquiry

Officer are in any manner perverse.

14. This Court under Article 226 of Constitution cannot interfere in such matters, where it is not established that findings of fact recorded by Tribunal suffer from perversity or some material evidence has been ignored. The Supreme Court in the case of Amrit Vanaspati Co. Ltd. Vs. Khem Chand and Another, , has aptly observed as under:

9.....In our opinion, the High Court while exercising powers under writ jurisdiction cannot deal with aspects like whether the quantum of punishment meted out by the management to a workman for a particular misconduct is sufficient or not. This apart, the High Court while exercising powers under the writ jurisdiction cannot interfere with the factual findings of the Labour Court which are based on appreciation of facts adduced before it by leading evidence. In our opinion, the High Court has gravely erred in holding that the evidence of respondent 1 was not considered by the Labour Court and had returned the finding that the evidence of respondent 1 did not inspire any confidence. We are of the opinion that the High Court is not right in interfering with the well-considered order passed by the Labour Court confirming the order of dismissal.

15. In view of the aforesaid circumstances, I do not find any illegality in the impugned award of the Tribunal and, therefore, no interference is called for under Article 226 of the Constitution of India.

16. The writ petition is dismissed. No order as to costs.