
(1988) 09 MP CK 0038
In the Madhya Pradesh High Court
Case No : M.P. No. 3442 of 1984

Nishit Kumar Banerjee and Another	APPELLANT
Vs	
Bank of India and Others	RESPONDENT

Date of Decision : 27-09-1988

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1), 12(5)

Citation : (1989) 58 FLR 830 : (1993) 3 LLJ 559

Hon'ble Judges : P.C. Pathak, J;B.C. Verma, J

Bench : Division Bench

Judgement

B.C. Verma, J.—The petitioner No. 1 is Cash-cum-Accounts Clerk in the Bank of India. He was charge-sheeted in February, 1982 and after a departmental enquiry punishment of stoppage of two increments has been imposed. This punishment was imposed upon him on a finding that two charges levelled against him were found proved. An appeal was preferred to the Appellate Authority and was dismissed. Thereafter, the matter was taken to the Employees Union of which the petitioner was the member and the matter was taken up in conciliation. Assistant Labour Commissioner finally submitted his report dt. 11.7.83 (Annexure-L). The appropriate Government which in the present case is Central Government on receipt of this report communicated his decision vide memo. dt. 10.11.1983 (Annexure-M). The petitioners are aggrieved by this order.

2. The petitioners have claimed relief of quashing the entire proceedings and the orders ultimately imposing punishment upon the petitioner No. 1. We, however, are not inclined to adjudicate upon the merits of the petitioners' claim for the reason that we are satisfied that in passing the impugned order (Annexure-M) the Central Government has exceeded its jurisdiction. Perusal of impugned order would indicate that while refusing to refer the dispute to the Labour Court, the Central Government reached a conclusion that the charges levelled against the petitioner No. 1 have been found to be proved and that full opportunity to defend himself was given. The rules of natural justice were not violated and the

proceedings cannot be said to be mala fide. It will thus appear that the Central Government communicated the decision upon the merits of the case. That certainly is not jurisdiction vested in the Central Government in that behalf. At this stage the question is whether or not the industrial dispute arises between the workman and its employer and if the answer is in affirmative, the dispute has to be referred to the Labour Court (See M.P. Irrigation Karamchari Sangh Vs. State of M.P. and Another, and Ram Avtar Sharma and Others Vs. State of Haryana and Another,

3. For the aforesaid reasons we are clearly of the opinion that the order (Annexure-M) cannot be allowed to stand and must be quashed. Accordingly, we allow this petition and direct the Central Government to refer the dispute raised by the petitioners for adjudication to the Labour Court. Since the petitioner No. 1 was imposed punishment in the year 1982, the matter needs expeditious action. The Central Government is, therefore, directed to make a reference within a period of three months from the service of the writ upon it and the Labour Court is also directed to expedite that matter. It shall be open to the petitioners to contest his claim against the imposition of the punishment before the Labour Court on the grounds available. The petitioners shall get the costs of this petition from the respondent No. 3. Hearing fee Rs. 200/-. Security amount be refunded to the petitioners.