
(1970) 02 MP CK 0002
In the Madhya Pradesh High Court
Case No : M. P. No. 25 of 1968

P. G. Paul

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 04-02-1970

Acts Referred:

Madhya Pradesh Industrial Relations Act, 1960 — Section 107

Citation : (1975) ILR (MP) 464 : (1970) JLJ 296 : (1970) MPLJ 280

Hon'ble Judges : Bishambhar Dayal, C.J.; Suraj Bhan Grover, J

Bench : Division Bench

Advocate : R. K. Verma, for the Appellant; K. K Dubey, Govt. Advocate for Respondents No. 1, for the Respondent

Judgement

Bishambhar Dayal, C. J.

This is a writ petition by P. G. Paul, Supervisor (Technical), Grade "A" who was at the relevant time engaged in the Gun Carriage Factory at Jabalpur. He was served with an order of transfer from this factory to another factory at Nagpur. He filed an application before the Labour Court challenging the order of transfer on grounds of mala fides, and also applied for an interim order staying his transfer in the meanwhile. The Labour Court passed an order u/s 107 of the M. P. Industrial Relations Act, 1980. This section authorizes the Industrial Court or a Labour Court to pass such interim orders including a prohibitory order or a stay order as it may consider just and proper. The Labour Court passed the stay order on two grounds. In the first place it was said that the application was based upon an allegation that Shri B. S. Tiwari, Deputy Manager of the Factory at Jabalpur, was annoyed with the applicant and, therefore, the order was mala fide; and the second ground was that the applicant had filed two other cases against the management and he would be prejudiced in prosecuting those cases if he is transferred. On these grounds the Labour Court passed an order staying the transfer order till the final decision of the case. Against that order a revision was filed before the Industrial Court and by its order dated 10 January 1968 the

Industrial Court modified the stay order directing the applicant to join duties at Nagpur within ten days from the date of the order and further directing the cases in which the applicant was involved to be decided at a very early date. It was also stated in the order that if the cases were not decided within two months, the petitioner would be retransferred in place of any other employee who was willing to exchange places. Against this order the present petition has been filed.

The contention of learned counsel for the petitioner is that the Industrial Court had no jurisdiction to interfere with an interim order passed u/s 107 of the said Act by the Labour Court. Learned counsel contended that the revisional powers vested in the Industrial Court u/s 66 can only be exercised if the Labour Court had passed a final order in a case, which was not so here, and if the order passed by the Labour Court was without jurisdiction or the Labour Court had failed to exercise jurisdiction vested in it. The contention is that this was also not the case here.

We are unable to agree with this contention of learned counsel. When an application for a stay order was made, that application itself started a case and when that case was finally decided by the Labour Court by its order dated 23rd November 1967 after hearing both the parties, it finally decided a case within the meaning of section 66 of the Act. Since the Labour Court decided the case on two points and both of them were entirely against the allegations made before the Court, there was no occasion to pass an interim order. The allegation of the applicant was that Shri B. S. Tiwari, Deputy Manager, was annoyed with the applicant. But it was stated on affidavit by the opposite party that the transfer order had been made by the Director-General of Ordnance factories at Calcutta. There being no allegation that the Director-General was prejudiced against the applicant, there was no prima facie case of prejudice proved by the applicant before the Labour Court at that stage. The other ground which appealed to the Labour Court was that the cases pending at Jabalpur could not be properly prosecuted by the applicant if he was transferred. This assumed that the management would not give him an opportunity to go to Jabalpur and defend the cases when the dates are fixed. This was also not a proper assumption. There was, therefore, no occasion to pass any interim order in a matter like this and if the revisional Court took that view, the case was squarely covered by clause (c) of sub-section (1) of section 66, namely,-

acted in exercise of its jurisdiction illegally or with material irregularity." We are, therefore, of opinion that the order passed by the Industrial Court was not without jurisdiction.

Apart from that, u/s 67 of the said Act the Industrial Court has in respect of all matters, subject to its appellate or revisional jurisdiction, the power of superintendence over the Labour Court and in the exercise of that power also the Industrial Court can correct improper orders passed by the Labour Court. There being no defect of jurisdiction, this Court will not interfere with interim orders on merits.

We, therefore, see no force in this petition, and reject the same. Parties will bear their own costs. The outstanding amount of the security deposit shall be refunded to the petitioner.