
(2005) 07 RAJ CK 0024
In the Rajasthan High Court
Case No : C.W.P.No. 1413 of 2005

Punjab National Bank

APPELLANT

Vs

PNB Employees Union and Another

RESPONDENT

Date of Decision : 18-07-2005

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2006) 1 LLJ 758 : (2005) 4 WLC 516

Hon'ble Judges : Shiv Kumar Sharma, J

Bench : Single Bench

Advocate : Rajendra Arora, for the Appellant; Deepak Mehta, for the Respondent

Final Decision : Dismissed

Judgement

Shiv Kumar Sharma, J.—Award dated August 12, 2004 of Central Government Industrial Tribunal cum Labour Court, Jaipur (for short "CGIT") is under challenge in this writ petition.

2. Following industrial dispute was referred for adjudication to the CGIT:

Whether the action of the Regional Manager, Punjab National Bank, Bharatpur in imposing the punishment of reduction to a lower stage by increments upon Shri Prahlad Kumawat, Clerk is legal and justified? If not, what relief the workman concerned is entitled to?

3. Respondent PNB Employees Union in the statement of claim pleaded that its member Prahlad Kumawat, Clerk-cuw-Cashier (for short "workman") was served with a charge sheet for the alleged acts of misconduct committed by the workman. After concluding the domestic inquiry, the Inquiry Officer submitted its report to the Disciplinary Authority. Opportunity of personal hearing was provided to the workman and the Disciplinary Authority vide order dated September 30, 1999 imposed the punishment of bringing down the basic pay of the workman by two stages i. e. basic pay was reduced from Rs. 4,645/- to Rs. 4,186/-. The workman preferred departmental appeal against the punishment order, but the

appeal was dismissed. Consequently the Industrial Dispute was raised before the Conciliation Officer, who submitted its failure report to the Central Government. Thereafter the matter was referred for adjudication to CGIT. The CGIT while answering the reference in favour of the workman, quashed the orders of disciplinary authority and the appellate authority and the workman was exonerated of all the charges.

4. Mr. Rajendra Arora, learned counsel for the petitioner, vehemently criticised the impugned award and canvassed that the conclusion of Disciplinary Authority was based on the evidence and no interference was called for. Learned counsel further argued that the Disciplinary Authority was the sole judge of the facts and CGIT exceeded the jurisdiction vested in it. I was taken through the material on record.

5. Having given my anxious consideration to the submissions advanced, I find that the workman was charged with the gross misconduct under Clause 19.5(j) and 19.5(7) of the Bipartite Settlement. Clause (j) reads as under:

(j) doing any act prejudicial to the interest, of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss.

Clause (1) reads as under:

(I) Abetment or instigation of any of the acts or omissions above mentioned.

6. Learned Tribunal after considering the evidence adduced before it observed in the impugned award as under: (Paras 22 & 23)

22. The disciplinary authority in the show cause notice has noted that even on the basis of the evidence of the defence witnesses DW.1 Shri S.S. Kamra, DW.3 Shri G.S. Jetawat and DW 4 Shri Rohata Gupta, the alleged misconduct of the workman is strengthened. I have gone into the deposition of these defence witnesses, but the inference drawn by the disciplinary authority in the aforesaid show cause notice cannot be sustained, since these witnesses have deposed in their evidence respectively that the delinquent came out of the cash cabin and reached to the place of occurrence to pacify and intervene the employees who were quarreling on the spot. These witnesses have nowhere in their evidence contributed the alleged misconduct to the workman delinquent in their evidence respectively. Thus a perverse inference has been drawn by the disciplinary authority.

23. It may further be pointed out in the show cause notice that disciplinary authority has relied upon the testimony of MW. 2 Shri Hari Om, MW. 3 Shri Sumesh Kumar, MW. 4 Shri Din Dayal Bansal and MW. 7 Shri Bhanwar Singh, Guard, but the reasons of his placing reliance upon their depositions have not been shown by him. I find on the perusal of their evidence that the major infirmities amongst their testimony have appeared which create serious doubt against the presumption of the guilt against the workman.

7. Evidently the workman was an Intervener and from the record it could not be established that he had done or abetted any act prejudicial to the interest of Bank or gross negligence or negligence involving or likely to involve the bank in serious loss. The findings arrived at by learned CGIT, are basically the findings of fact cannot be interfered with under Article 227 of the Constitution. I find myself unable to agree with the submissions advanced by the learned counsel for the petitioner, it is well settled that the power under Article 227 is an extraordinary one and intended to be used only in exceptional cases and not as a substitute for ordinary revisional or appellate powers.

8. For these reasons, the writ petition being devoid of merit stands dismissed without any order as to costs. The interim order passed on March 11, 2005 shall stand vacated.