
(2015) 03 KAR CK 0209

In the Karnataka High Court

Case No : Writ Petition No. 80154/2009 (L-TER)

Rajashree Cement (A Division of Indian Rayon and Industries Ltd.)

APPELLANT

Vs

Sanjay

RESPONDENT

Date of Decision : 12-03-2015

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(4)(a)

Citation : (2015) 03 KAR CK 0209

Hon'ble Judges : Ravi V. Malimath, J.

Bench : Single Bench

Advocate : Pramod N. Kathavi, for the Appellant; P. Vilas Kumar, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

Ravi V. Malimath, J.—The case of the workman is that he was appointed as a Mazdoor in the Electric Department of the petitioner. On 01.07.1992, he was allotted a bachelor's quarters. After he got married, he was asked to vacate the same or pay a monthly rent of Rs. 500/- per month. He continued in the same quarters by paying a rent of Rs. 500/- per month.

2. The case made out by the claimant is that when a strike was called, since he did not participate in the same, some of the employees of the petitioner were against him. They instigated the Management. On certain acts of misconduct, articles of charge was issued and an enquiry was conducted. It was held that the charges are proved. He was terminated from services. Hence, he filed the instant claim petition under Section-10(4)(a) of the Industrial Disputes Act (hereinafter referred to as "Act").

3. The Labour Court awarded reinstatement along with 50% backwages and continuity in service. Aggrieved by the same, the Management has filed the present appeal.

4. Sh. Pramod N. Kathavi, learned counsel appearing for the petitioner contends that the impugned order is bad in law and liable to be set-aside. That the respondent is not entitled for any reinstatement. That the Labour Court misdirected itself in awarding 50% backwages, other than reinstatement. That the Labour Court has not substantiated as to how the respondent is entitled for the said relief.

5. On the other hand Sri. P. Vilas Kumar, learned counsel appearing for the respondent defends the impugned order. He contends that the order passed by the Labour Court is just and proper and no interference is called for. That the reasons assigned by the Labour Court are appropriate. That even though the respondent is entitled for 100% backwages, only 50% backwages has been granted.

6. Heard learned counsels and examined the material on record.

7. The charges leveled against the respondent are as follows:

"(a) S.O.21(1) : Insubordination or disobedience whether alone or in combination with another or others, of any lawful or reasonable order of a superior.

(b) S.O.21 (26) : Refusing to accept any charge sheet or order or notice or any other communication in writing from the Management.

(c) S.O.21 (35) : Violation of terms and conditions of allotment of company's quarters or forcible occupation or unauthorised use of the company's quarters.

(d) S.O.21 (42) : Indulging in false petitioning against the establishment and making false reports/petitions.

(e) S.O.21 (44) : Commission of an act subversive of discipline.

(f) S.O.21(45) : Violation and or deviation from the rules of the company in carrying out duties, non-compliance of systems, procedures, rules, regulations, officially laid down."

8. The charges were held proved. There is no acceptable material to find fault with the enquiry report. The workman neither let-in evidence nor cross-examined the management witnesses. However, the Labour Court was of the view that none of the charges are severe in nature. That the management ought not to have gone to the extent of dismissing the workman from the service. That dismissing the workman from service is disproportionate to the charges levelled against him. That the punishment imposed is shocking. Under these circumstances, reinstatement was ordered with 50% backwages.

9. On considering the charges as well as the reasoning assigned by the Labour Court, I am of the considered view that the same is appropriate insofar as reinstatement is concerned. That the proportionality of the punishment cannot be accepted based on the charges that are leveled against him.

10. So far as the award of 50% backwages is concerned, I am of the considered

view that on this account the punishment would have to be considered. The Charges are to the extent of showing Insubordination or disobedience, refusing to accept any charge sheet or order or notice or any other communication in writing from the Management, violation of terms and conditions of allotment of company's quarters or forcible occupation or unauthorised use of the company's quarters, indulging in false petitioning against the establishment and making false reports/petitions, commission of an act subversive of discipline and violation and or deviation from the rules of the company in carrying out the duties, non-compliance of systems, procedures, rules, regulations, officially laid down.

11. Even though these charges are held to be proved, the award of 50% of the backwages would be as putting a premium on the acts of the workman. The Labour Court was generous enough in granting substantial relief to the workman by ordering his reinstatement along with continuity of services. I am of the considered view that the reinstatement is just and appropriate and does not call for interference. However, the grant of 50% backwages seems to be very liberal and a far too excessive relief to the workman.

12. Consequently, the petition is partly allowed. The order dated 25.08.2008, passed in Ref. No. 178/2003 on the file of the Presiding Officer, Labour Court at Gulbarga is modified. 50% of backwages granted by the labour court is set-aside. Rest of the order is undisturbed.

13. Since there was an order of stay of the impugned award on 31.01.2009, the petitioner is directed to reinstate the workman into service within a period of 4 weeks from the date of receipt of copy of this order. Respondent to approach the petitioner within the said period.

Rule made absolute.