
(2006) 03 CHH CK 0034
In the Chhattisgarh High Court
Case No : Writ Petition No. 1550 of 1996

Steel Authority of India Ltd.	Vs	APPELLANT
Ram Suhag and Others		RESPONDENT

Date of Decision : 02-03-2006

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Madhya Pradesh Industrial Relations Act, 1960 — Section 31(3), 65

Citation : (2006) 3 LLJ 291 : (2006) 3 MPJR 107

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : P.R. Patankar, for the Appellant; R.S. Patel, for the Respondent

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.

The Respondent No. 1 (Shri Ram Suhag) was employed by the petitioner as Mazdoor. The memorandum dated October 20, 1992 (Annexure P/2) was issued to the Respondent No. 1 containing following charge:

Shri Ram Suhag while working as Attendant in A. R. Shop, B. S. P. has been guilty of "willful/habitual absence from duty without prior permission/sanction of leave by the Competent Authority" inasmuch as he absented from duty unauthorisedly from September 25, 1992 to October 9, 1992.

According to the petitioner, proper enquiry was held and the enquiry officer submitted his report. On the basis of the said report the disciplinary authority agreeing with the report imposed the punishment of termination from service which is within the jurisdiction of the disciplinary authority.

The respondent No. 1 while admitting his guilt of remaining absent from September 25, 1992 to October 9, 1992 gave an undertaking that he would not commit such an act in future and prayed for forgiveness of his act. The

disciplinary authority by order dated May 19, 1993 resorted to the extreme punishment of imposition of termination from service.

Being aggrieved, the Respondent No. 1 filed an application before the Labour Court u/s 31(3) of the Madhya Pradesh Industrial Relations Act, 1960 (for short "the Act, 1960") praying that the termination order dated May 19, 1993 be quashed as no proper enquiry was held to prove the charge against the petitioner that he remained willful and habitual absent for about 15 days. The Labour Court, Durg vide its award dated April 21, 1994 dismissed the application holding that the punishment was proper and legal.

Being aggrieved, the Respondent No. 1 filed an appeal u/s 65 of the Act, 1960 against the award dated April 21, 1994 passed by the Labour Court, Durg in Case No. 73/M.P.I.R./93, before the Industrial Court, Raipur, being appeal No. 224/MPIR Act/94.

The Industrial Court having considered the facts and circumstances of the case came to the conclusion as under:

(Vernacular matter omitted)

and allowed the appeal of the Respondent No. 1 partly to the extent that the Respondent No. 1 would be entitled to be reinstated in service without back wages. The Management before filing this writ petition under Article 226 of the Constitution of India praying for quashing of the impugned order dated April 20, 1995 passed by the Industrial Court.

I have heard learned Counsel for the parties and perused the records appended to the pleadings. It is clear case where the entire proceeding had taken place on the basis of the admission of the Respondent No. 1 to the extent that he remained absent. The enquiry officer had closed the enquiry without establishing the fact as to whether the alleged absence was willful or habitual when the charge levelled against the Respondent No. 1 was unambiguous as to "whether the Respondent No. 1 was guilty of willful/habitual without prior permission/without sanction of leave by the competent authority". The Industrial Court has examined all the facts of the case correctly and allowed the appeal partly.

I have not found any perversity in the impugned order passed by the Industrial Court. The impugned order does not suffer from any infirmity. In the facts and circumstances of the case it does not call for any interference in the impugned order in exercise of powers under Article 226/227 of the Constitution of India. Accordingly the petition is dismissed and the order dated April 20, 1995 passed by the Industrial Court is upheld. No order as to costs.