

(2006) 01 KAR CK 0078
In the Karnataka High Court
Case No : Writ Petition No. 25986 of 2005

The General Manager, Wheel and Axle Plant	APPELLANT
Vs	
N. Ramachandra Reddy	RESPONDENT

Date of Decision : 23-01-2006

Acts Referred:

Industrial Disputes Act, 1947 — Section 10 (2-A), 11

Citation : (2006) 110 FLR 981 : (2006) 2 KarLJ 379

Hon'ble Judges : Mohan Shantanagoudar, J

Bench : Single Bench

Advocate : Ashok Harnahalli, for the Appellant; D.R. Viswanatha Bhat for Subbarao and Company, for the Respondent

Judgement

Mohan Shantanagoudar, J.—By the order dated 18-10-2004, the Industrial Tribunal has held that domestic enquiry conducted against the workman is not fair and proper. By the order dated 25-7-2005, the Industrial Tribunal has rejected the application LA. No. I filed by the employer to lead evidence. Subsequently by the impugned award dated 13-9-2005, the Labour Court set aside the order of dismissal and directed the management to reinstate the workman. All the three aforesaid orders are called in question in this writ petition.

2. The records disclose that based on proved charges of unauthorised absenteeism for certain period, the Disciplinary Authority dismissed the workman from service. The workman raised a dispute. The Central Government by exercising powers conferred u/s 10(2-A) of the Industrial Disputes Act, 1947 has referred the dispute to the Industrial Tribunal-cum-Labour Court, Bangalore for adjudication. The Labour Court, as aforesaid, by the order dated 18th October, 2004 held that the domestic enquiry conducted against the workman is not fair and proper. Thereafter the management filed an application u/s 11 of the Industrial Disputes Act praying for leading fresh evidence, with regard to the charges levelled against the workman. The Industrial Tribunal-cum-Labour Court by the order dated 25th July, 2005 rejected the said application, consequently,

the management was not permitted to lead evidence in support of the charges levelled against the workman, as a result of which, award is passed by the Labour Court directing the management to reinstate the workman. The Labour Court has held that as the management has not reserved its liberty to lead evidence, in its written statement, in the event of Labour Court holding that the domestic enquiry is unfair and improper, it cannot be permitted to lead evidence in this case.

3. To resolve the said controversy, it is relevant to note the observations of the Apex Court in the case of Karnataka State Road Transport Corpn. Vs. Smt. Lakshmiddevamma and Another, , made in para 45 which read thus:

Para 45. It is consistently held and accepted that strict rules of evidence are not applicable to the proceedings before Labour Court/Tribunal but essentially the rules of natural justice are to be observed in such proceedings. Labour Courts/Tribunals have power to call for any evidence at any stage of the proceedings if the facts and circumstances of the case demand the same to meet the ends of justice in a given situation. We reiterate that in order to avoid unnecessary delay and multiplicity of proceedings, the management has to seek leave of the Court/Tribunal in the written statement itself to lead additional evidence to support of its action in the alternative and without prejudice to its rights and contentions. But this should not be understood as placing fetters on the powers of the Court/Tribunal requiring of directing parties to lead additional evidence including production of documents at any stage of the proceedings before they are concluded, if on facts and circumstances of the case, it is deemed just and necessary in the interest of justice.

(emphasis supplied)

4. As could be seen from the aforesaid observations of the Apex Court, the Labour Court/Tribunal may require or direct the parties to lead additional evidence including production of documents at any stage of the proceedings before they are concluded if on facts and circumstances of the case, it is deemed just and necessary to do so in the interest of justice. The said dictum of the Apex Court is again followed and reiterated in the case of Divyash Pandit v. Management of NCCBM (2005)2 SCC 684 : 2005 SCC (L & S) 256 : AIR 2005 SCW 5525, wherein it has observed thus:

Para 8. The appellant has challenged this decision of the High Court before us. We are of the view that the order of the High Court dated 2-12-2002 as clarified on 3-3-2003 does not need any interference. It is true no doubt that the respondent may not have made any prayer for (submitting) additional evidence in its written statement but, as held by this Court in Karnataka State Road Transport Corpn. Vs. Smt. Lakshmiddevamma and Another, , this did not place a fetter on the powers of the Court I Tribunal to require or permit parties to lead additional evidence including production of document at any stage of proceedings before they are concluded. Once the Labour Court came to the finding that the

enquiry was non est, the facts of the case warranted that the Labour Court should have given one opportunity to the respondent to establish the charges before passing an award in favour of the workman.

5. In view of the aforesaid observations of the Supreme Court, the Labour Court has jurisdiction to permit the parties to lead evidence before passing the award, if the facts of the case warrant the same, despite the absence of prayer in that regard, in the written statement.

6. In the case on hand, the Labour Court having set aside the enquiry as not fair and proper, should have permitted the employer to lead evidence in support of the charges levelled against the workman. The facts of this case warranted that the Labour Court should have given an opportunity to the management to establish the charges. Non-granting of permission to the management to lead evidence in support of the charges has led to miscarriage of justice in this case. Hence the order dated 25-7-2005 and consequently the impugned award dated 13-9-2005 are liable to be quashed. However, I do not propose to interfere in the order of Industrial Tribunal dated 18th October, 2004 at this stage.

7. Hence the following order is made:

The order Annexure-C, dated 25th July, 2005 and award Annexure-A, dated 13th September, 2005 are quashed. The matter is remanded to the Industrial Tribunal/Labour Court, Bangalore with a direction to permit the management to lead evidence in support of the charges. The Industrial Tribunal/Labour Court shall decide the matter within three months from the date of receipt of this order. The reinstatement of the workman shall be subject to result of the matter before the Industrial Tribunal/Labour Court.

8. Accordingly, writ petition is disposed of.