
(1989) 12 AHC CK 0026
In the Allahabad High Court
Case No : C.M.W.P. 14670 of 1983

U.P. Road Transport Corpn.

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 15-12-1989

Acts Referred:

Citation : (1995) 3 LLJ 617

Hon'ble Judges : B.N. Misra, J

Bench : Single Bench

Advocate : S.K. Sharma, for the Appellant; B.D. Mandhyan and C.P. Ghildyal, for the Respondent

Final Decision : Dismissed

Judgement

B.N. Misra, J.—This writ petition is directed against the Award dated July 22, 1983 (Annexure-6) whereby the Presiding Officer, Labour Court, Gorakhpur, has found that the termination of the services of Respondent No. 3 by the petitioner-Corporation on January 12, 1979 was improper and illegal. The Award further directs the petitioner to reinstate Respondent No. 3 in his service and pay 50 per cent of the back wages due to him.

2. Facts may be briefly stated. Respondent No. 3 was appointed as casual labourer in a short term vacancy on January 2, 1977. Thereafter, he was appointed from time to time as casual labourer until his appointment on fixed term basis. It is alleged that on January 11, 1979 Respondent No. 3 was found carrying away some electric welding rods belonging to the petitioner. The rods were seized from Respondent No. 3 who was immediately put under departmental proceedings. According to the petitioned as the Corporation did not want to take any penal action against Respondent No. 3 no formal order of punishment was passed against him, but he was not given any duties with effect from January 12, 1979. Thereafter, at the instance of Respondent No. 3 conciliation proceedings commenced and on receipt of the conciliation failure report, the State Government referred the following dispute to the Presiding

Officer, Labour Court, Gorakhpur, and Adjudication Case No. 41 of 1981 was accordingly registered.

"Kya sewayojakon dwara apne shramik Sahabuddin (putra Sri Abbas Ali) ko dinank 12.1.1979 se karya se pritnak/van-chit kiya jana uchit tatha/athwa vaedhanik hai. Yadi nahin to sambandhit shramik kya labh/anuthosh/relief pane ka adhikari hi tatha anya kis vivran sahit".

3. The petitioner and Respondent No. 3 appeared before the Labour Court, filed their respective written statements and also led evidence. On consideration, the Labour Court passed an Award on July 22, 1983 (Annexure-6) holding that the termination of the services of Respondent No. 3 was improper and illegal. The petitioner was directed to reinstate Respondent No. 3 and he was given 50 per cent of back wages due to him. It appears that the decisions of the Labour Court is based mainly on the point that the domestic enquiry held by the petitioner against Respondent No. 3 was not in accordance with the principles of natural justice. On merits also the Labour Court further found that Respondent No. 3 was innocent of the charges.

4. Learned Counsel appearing for the petitioner submitted that the Labour Court acted wrongly in not giving an opportunity to the petitioner to prove the charges against Respondent No. 3 on finding that the domestic enquiry held by the petitioner was improper being against the principles of natural justice. On going through the Award and the materials placed on record, I find that though the Labour Court had not framed a specific preliminary issue on the question whether domestic enquiry held against Respondent No. 3 was valid and legal, it has discussed the evidence adduced on behalf of the Management in support of the charges levelled against Respondent No. 3 and it appears that the petitioner failed to establish the charges against Respondent No. 3 before the Labour Court even independently of the domestic enquiry. The allegation that the petitioner had not been given an opportunity to adduce evidence before the Labour Court to establish the charges against Respondent No. 3 has not been substantiated. On consideration, the Award of the Labour Court must be held to be just and proper and does not call for interference by this Court.

5. In the result, this writ petition is dismissed with costs. Hearing fee is assessed at Rs. 200. Respondent No. 3 will be entitled to his salary in full from the date of the Award and 50 per cent of the back wages, as directed by the Labour Court from the date of termination till the date of the Award subject to adjustment of payments, if already made as per directions of this Court contained in its interim order, dated May 14, 1984.

Petition dismissed.