
(2016) 08 AHC CK 0220
In the Allahabad High Court
Case No : Writ C No. 49281 of 2012

U.P.S.R.T.C.

APPELLANT

Vs

Kundan Singh

RESPONDENT

Date of Decision : 26-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 9 ADJ 500

Hon'ble Judges : Ashwani Kumar Mishra, J.

Bench : Single Bench

Advocate : Rahul Anand Gaur, S.K. Mishra and Sunil Kumar Mishra, Advocates, for the Petitioner; C.S.C, Jamal Ahmad, Jamal Khan and Surya Prakash Singh, Advocates, for the Respondents

Final Decision : Dismissed

Judgement

Ashwani Kumar Mishra, J.—Labour Court has answered the reference made by Deputy Labour Commissioner, Agra Region, Agra on the question as to whether services of respondent workman have been validly terminated w.e.f. 4.10.1999, or not? and to what relief respondent workman is entitled?

2. Respondent workman was employed as Driver by petitioner employer in the year 1987 and he continued to function without any complaint. It appears that on 20.12.1998 respondent workman absented from duty without obtaining any sanctioned leave and did not report for duty. It further appears that on 15.5.1999 respondent workman appeared along with fitness certificate and moved an application before the Assistant Regional Manager for grant of medical leave on the ground that he was suffering from tuberculosis, and as such, he remained undisposed. Disciplinary proceedings were initiated in respect of unauthorized absence and ultimately a termination order was passed against the petitioner on 4.10.1999, which was subject matter of reference before the Labour Court.

3. Labour Court on the basis of oral and documentary evidence adduced by the parties before it, has come to the conclusion that disciplinary proceedings were not conducted in accordance with law against the workman and the termination of services on the basis of such ex parte enquiry also cannot be sustained. Labour Court has awarded relief of reinstatement along with 25% back wages as well as cost of litigation amount to Rs.2,000/-.

4. Learned counsel for the petitioner states that award fails to take into consideration the contradictory stand taken by the workman and that the relief of reinstatement along with 25% back wages is bad in law.

5. Learned counsel for the respondent workman, on the other hand, submits that the Labour Court has committed no error of jurisdiction, which may require interference.

6. From the materials which have been brought on record, it transpires that respondent workman was appointed in the year 1987 and he had worked for almost 11 years without any complaint. The only charge against the petitioner was of having unauthorisedly absent from duty w.e.f. 2012.1998. It is not in dispute that respondent workman has offered joining on 15.5.1999 along with medical certificate, according to which, he was suffering from tuberculosis. There is no dispute with regard factum of illness or the fact that respondent workman was suffering from serious ailment. Labour Court has also noticed that the workman had in fact sent communication to the employer although its receiving has been disputed by the petitioner.

7. In view of the materials brought on record, this Court is of the opinion that in the facts and circumstances of the present case, award of the Labour Court cannot be said to be suffering from any error of jurisdiction or perversity, which may require any interference. The factum of illness of respondent workman which led to his absence from duty for about five months is not disputed. Respondent workman had already been punished inasmuch the relief of reinstatement along with 25% back wages alone has been allowed. In the opinion of the Court, it is not a fit case for exercising jurisdiction of this Court under Article 226 of the Constitution of India.

8. Writ petition is accordingly dismissed.