
(2010) 06 AHC CK 0020
In the Allahabad High Court
Case No : Writ Petition No. 882 of 2008 (M/S)

Uttarakhand Transport Corporation Through its Regional Manager, Dehradun APPELLANT

Vs

Presiding Officer, Labour Court, Dehradun and others RESPONDENT

Date of Decision : 21-06-2010

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 6(2A)

Citation : (2010) 06 AHC CK 0020

Hon'ble Judges : Tarun Agarwala, J

Final Decision : Allowed

Judgement

Tarun Agarwala, J.

Heard Mrs. Seema Sirohi, the learned counsel for the petitioner, Shri Ramji Srivastava, the learned counsel for respondent No.2 and Shri M.C. Pant, the learned counsel for respondent No. 3.

The petitioner has assailed the validity and legality of the award by which the workman has been reinstated in service with continuity of service and with full backwages.

The brief facts which led to the filing of the writ petition is, that the workman is a driver in the Corporation and was chargesheeted on several counts, namely, absent without leave, driving in a drunken state, driving rashly and negligently and driving without permission of the superior authority. It transpires that the workman submitted his reply which was found unsatisfactory, and consequently, a domestic inquiry was initiated and an Inquiry Officer was appointed. The Inquiry Officer conducted the domestic proceedings in accordance with the principles of natural justice. The Inquiry Officer found most of the charges stood proved against the workman except one charge and, on the basis of the findings given by the Inquiry Officer and, such other factors, the disciplinary authority issued the order of termination dated 2 nd July, 1999. The workman, being

aggrieved, raised an industrial dispute which was eventually referred to the Labour Court by an order dated 26 th April, 2002. The terms of the reference order is :

?Whether the services of the workman Indra Singh was validly w.e.f. 2 nd July, 1999 ? If not, to what relief is the workman entitled to ?

Before the Labour Court, the workman contended that the order of termination was in violation of the principles of natural justice and that no opportunity was provided to him during the inquiry proceedings. The workman also denied the charges that was levelled against him. On the other hand, the employer contended that full opportunity was provided to him and that he availed the principles of natural justice and, that the Inquiry Officer after considering the material evidence that was brought on record, gave a categorical finding of guilt which was duly considered by the disciplinary authority. The disciplinary authority, considering the gravity of the charge that was proved against the workman, issued the order of termination. The employer submitted that the principles of natural justice was duly complied with.

The Labour Court, after considering the material evidence that was brought on record, went into the merits of the charges and gave a finding that the charge levelled against the workman was not proved and, consequently, directed reinstatement of the workman with continuity of service and with full backwages. The petitioner, being aggrieved by the said award, has filed the present writ petition.

Having heard the learned counsel for the parties, the Court is of the opinion that the procedure adopted by the Labour Court was incorrect and against the settled principles as laid down by the Supreme Court in various cases. Once, the domestic inquiry is conducted by the employer and, the fairness of such an inquiry is disputed by the workman, the Labour Court is bound to frame a preliminary issue with regard to the fairness of the domestic inquiry. Such ground was raised by the workman in his written statement. The award is silent as to whether the issue on the fairness of the domestic inquiry was framed or not. The learned counsel for the workman contends that such an issue was framed. Assuming that such an issue was never framed by the Labour Court, nonetheless, it was the onerous duty of the Labour Court to dwell and consider as to whether the domestic inquiry was held in a fair and proper manner and whether it was in consonance with the principles of natural justice.

Once a finding on the fairness of the enquiry proceedings is given by the Labour Court, namely, that it was fair and proper, in that event, the Labour Court cannot go into the merit of the charge framed against the workman nor can it consider as to whether the said charge stood proved or not, in as much as, the Labour Court is not sitting as an appeal over the finding given by the Inquiry Officer but, where the inquiry is vitiated on the ground that it was in violation of the principles of natural justice, as a result of which, the findings given by the

Inquiry Officer against such charges stood vitiated on the ground of violation of the principles of natural justice, in that event, the law as propounded by the Supreme Court in a catena of cases is that an opportunity is given to the employer to lead evidence and prove the charge before the Labour Court. This is clear from various decisions of the Supreme Court starting from *Workmen of the Motipur Sugar Factory Pvt. Ltd. Vs. The Motipur Sugar Factory Pvt. Ltd.*, AIR 1965 SC 1803, *State Bank of India Vs. R.K. Jain and others*, (1972) 4 SCC 304, *Delhi Cloth and General Mills Co. Vs. Ludh Budh Singh*, (1972) 1 SCC 595, *The Workmen of M/S Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. Vs. The Management and Other*, (1973) 1 SCC 813, *The Cooper Engineering Limited Vs. Shri P.P. Mundhe*, (1975) 2 SCC 661, *Shankar Chakravarti Vs. Britannia Biscuit Co. and another*, (1979) 3 SCC 371 and *Karnataka State Road Transport Corpn. Vs. Lakshmiddevamma (Smt) and another*, (2001) 5 SCC 433.

In the light of the aforesaid, it is clear that where the domestic inquiry is vitiated, only then the Labour Court can go into the merits of the charges and direct the employer to lead the evidence and prove the charges. But where the fairness of the domestic inquiry is found to be fair and proper and the Inquiry Officer has proved the charges, in that event, the Labour Court cannot go into the merits of the case or hold that the charge has not been proved. The Labour Court could only dwell upon the gravity of the punishment awarded u/S 6 (2A) of the U.P. Industrial Disputes Act.

In the light of the aforesaid, the Court finds that the Labour Court, without giving any finding on the fairness of the domestic inquiry, has straightway considered the charges levelled against the workman and gave a finding that the said charge was not proved. In my opinion, the Labour Court exceeded its jurisdiction. In the light of the aforesaid, the award cannot be sustained and is quashed. The writ petition is allowed. The matter is remitted to the Labour Court again to decide the matter afresh within six months from the date of the production of a certified copy of this order in the light of the aforesaid observation.