

(1961) 03 P&H CK 0029
In the Punjab And Haryana At Chandigarh

Ved Luxmi Flour and General Mills (Private), Ltd.	APPELLANT
Vs	
Labour Court and Another	RESPONDENT

Date of Decision : 13-03-1961

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1961) 2 LLJ 614

Hon'ble Judges : Mahajan, J

Bench : Single Bench

Judgement

Mahajan, J.—This is a petition by the management of the Ved Luxmi Flour and General Mills (Private), Ltd., Rohtak, under Article 226 of the Constitution directed against the award of the labour court, Rohtak. After due enquiry the respondent Tarlok Chand was dismissed from service by the management. The charge made against him was that on 23 February 1959, Tarlok Chand forcibly snatched the bunch of keys from Dev Dutt, opened the bins of the mills and got them inspected by Dev Raj Sethi and comrade Gurmukh Singh without the permission of the manager. Thus it will be seen that the charge was two fold--(1) the forcible snatching of the keys; and (2) the unauthorized inspection by the gentlemen without the permission of the manager. Explanation of Tarlok Chand was taken by the management. Evidence was recorded in his presence and thereafter orders of dismissal were passed. This dispute was taken by the union and, therefore, it was referred by the Government by notification to the labour court on 12 January 1960, Before the labour court, the entire proceedings resulting in the dismissal of Tarlok Chand were produced by the manager and reliance was placed on those proceedings. The labour court, however, recorded fresh evidence and on the basis of that fresh evidence, it came to the conclusion that the findings of the management were completely baseless and perverse. I have not been able to reconcile myself to this proposition that the findings arrived at by the management on the evidence recorded by it can be judged by reference to fresh evidence recorded by the labour court. The scope of the authority of the labour court in such matters has been more than once stated by

their lordships of the Supreme Court and reference may be made to the observations of their lordships in *Indian Iron and Steel Co., Ltd. v. their workmen* 1958 I L.L.J. 2603 which are in these terms:

Undoubtedly, the management of a concern has power to direct its own internal administration and discipline: but the power is not unlimited and when a dispute arises, industrial tribunals have been given the power to see whether the termination of service of a workman is justified and to give appropriate relief. In case of dismissal on misconduct, the tribunal does not, however, act as a Court of appeal and substitute its own judgment for that of the management.

It will interfere--

- (i) when there is a want of good faith;
- (ii) when there is victimization or unfair labour practice;
- (iii) when the management has been guilty of a basic error or violation of a principle of natural justice; and
- (iv) when on the materials, the finding is completely baseless or perverse.

What I understand by proposition 4 is that the finding of the management has to be held baseless or perverse, on the evidence recorded by the management. To the similar effect are the observations of the Supreme Court in *India General Navigation and Railway Co. Ltd. and Another Vs. Their Workmen*,

2. It is no doubt true that if no proper enquiry was held then, of course, the tribunal could on that basis hold the dismissal to be ultra vires but in the present case proper enquiry was held and at no stage of the enquiry any grievance was made by Tarlok Chand that his evidence was not properly recorded. As a matter of fact, it was only in the labour court for the first time that he set out a case that the management did not record what the witnesses stated. If that were true he would have said so at the stage of the enquiry that was conducted by the management. The tribunal, on the other hand, recorded the statements of those very witnesses and came to a different finding on the same matter. If these very witnesses were not prepared to speak the whole truth before the management, how could the tribunal come to the conclusion that they were speaking the truth before it. As a matter of fact, evidence of such witnesses would be wholly unworthy of credence. It is patent on the evidence that the first charge, namely, the snatching of the keys is not proved, but the second charge, namely, that he got the inspection of the bins conducted is fully proved, and as has been held by the Supreme Court in *Indian Iron and Steel Co., Ltd. and Another Vs. Their Workmen*, the labour court cannot sit on appeal on the finding of the management. It cannot be disputed that it is in the interest of discipline that an employee of a concern does not do anything beyond the scope of his authority. It was not part of the duty of Tarlok Chand to get the bins inspected. That being so, the award of the labour court is wholly without jurisdiction and in this view of the matter, relying on the Supreme Court's decision, I set aside the same. In the

circumstances, however, I will make no order as to costs.