
(1966) 04 AP CK 0002
In the Andhra Pradesh High Court

Venkataramana (K.) and Others

APPELLANT

Vs

Labour Court and Another

RESPONDENT

Date of Decision : 12-04-1966

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 33A

Citation : (1967) 2 LLJ 80

Hon'ble Judges : Kumarayya, J

Bench : Single Bench

Judgement

Kumarayya, J.—This is a petition to quash the award of the labour court, Guntur, dated 26 August 1963, In Industrial Dispute No. 1 of 1963 which was referred to it u/s 10(1)(c) by the Government as per G.O. Ms. No. 962, dated 16 May 1963. The question referred to was whether the dismissal of the nine employees was justified.

2. The petitioners are the workmen who have put in a service of eight to fourteen years in the respondent-company, Sri Ramdas Motor Transport (Private), Ltd., Kakinada. They were dismissed by the management as a result of an enquiry into two incidents bearing upon their misconduct. On 1 December 1962, four of the petitioners boarded at Karapa the bus APP. 1712 which was going from Kapileswarapuram to Kakinada. The checking inspector questioned the conductor of the bus as to why he had allowed those people to travel in that mufassal bus without a ticket or a free pass. Of course, they were entitled to travel in the city bus without a ticket but not by the mufassal bus. An interrogation by the checking inspector infuriated the said workers. It appears that he was threatened and detained at some place and finally was allowed to go. The checking inspector made his report to the management about the Incident. This exasperated further all the workmen. On 8 December 1962, when the checking inspector was about to enter the company's office, one of the workmen rushed at him and caught hold of him by the collar using abusive language and dragged him from the steps of the office. The other workmen surrounded him. Several bodily Injuries were

caused by inflicting fist blows. He was dragged to the road when he (the checking inspector) was eventually rescued. The next morning he gave a report to the management. The management, as a result of this, issued charge memos to the workmen involved in the incidents and appointed the personnel officer as the enquiry officer. The enquiry officer inquired into both incidents. The workmen took part in the first enquiry, but refused to take part in the second enquiry. The enquiry officer, after recording evidence, submitted his report. The managing director called for explanations from the delinquents and after considering the same, issued orders dismissing the workmen from service. The case of the workmen was sponsored by the East Godavari Motor Transport Workers' Union. As a result of it, the Government referred the matter to the labour court. Before the labour court, the workmen complained that the enquiry as conducted was not a fair and proper enquiry. It was urged that the charge memos, were issued to the delinquents prior to the holding of the preliminary enquiry by the personnel officer, that the statements recorded at the preliminary enquiry were not made available to the workmen, that they were denied a right of appeal against the final order as that was passed by the managing director himself, that they were not given an opportunity to be represented by a person of their choice even though such facility was given to the management and that there was no allegation at all against two of the workmen in the statements of the witnesses. The labour court considered all these objections and repelled them one after another on merits. Of course, some evidence also was adduced before the labour court; the labour court having found that the objections raised were untenable thought it unnecessary to probe farther into the matter having regard to the limited scope of its powers in the matter. It, however, found that there was no material which will enable it to come to the conclusion that the finding of the enquiry officer was baseless or perverse or was based on no evidence. In this view of the matter, the presiding officer of the labour court found that the dismissal of the nine workmen was justified.

3. Sri K. Satyanarayana, the learned Counsel for the petitioners, contends that the award of the labour court is invalid as it has failed to give any finding on merits of the incidents. He further takes exception to the fact that after the charge memos were issued to the workmen, the preliminary enquiry was conducted behind the back of the petitioner and it was bad in law and on that basis also the dismissal could not have been justified. In support of these contentions, the learned Counsel has relied on *The Punjab National Bank Ltd. Vs. Its Workmen*, and *The River Steam Navigation Co. Ltd. Vs. Shyam Sundar Tea Co. Ltd.*, The general principle is beyond doubt. The broad proposition I entertain no doubt about, and it seems to be the only question that properly arises here, is as to the competence of the labour court to sit in judgment as a court of appeal on the findings reached by the domestic forum. It is too late in the day to contend as if it were doubtful that where the inquiry was fair and proper, the labour court can yet review the evidence recorded by the domestic forum and interfere with the finding reached by it (the domestic forum). By complete

authority including that of the Supreme Court it has been settled that in cases of dismissal for misconduct where domestic inquiry has been properly held, the labour court does not act as a court of appeal and substitute its own judgment for that of the management. Undoubtedly, the management of the concern has full powers to be in control of its own internal administration and discipline. This power, however, is not unrestricted and when a dispute arises, which is an industrial dispute in nature, the labour courts have powers to see whether the termination of workmen is justified and grant appropriate relief. This power will be exercised only when it is clear that the management had not acted in good faith and has been guilty of victimization or unfair labour practice or In the enquiry held there has been violation of the principles of natural justice or there is no material to support the order of dismissal made by them or that the conclusion reached to that effect is arbitrary, perverse and baseless. See in this behalf *Indian Iron and Steel Co., Ltd. and Another Vs. Their Workmen*, This is the view which has been consistently followed by the various High Courts and also reiterated from time to time by the Supreme Court.

4. The learned Counsel, however, referred me as against this to the observations of the Supreme Court in *The Punjab National Bank Ltd. Vs. Its Workmen*, at 681 which are to the following effect:

...If under a complaint filed u/s 33A a tribunal has to deal not only with the question of contravention but also with the merits of the order of dismissal, the position cannot be any different when a reference is made to the tribunal like the present u/s 10, What is true about the scope of enquiry u/s 33A is a fortiori true in the case of an enquiry u/s 10. What is referred to the tribunal under 3.10 is the Industrial dispute between the bank and its employees.

These observations go to show that in cases where it becomes necessary to go into the merits, it is the duty of the labour court to do so and such cases are those where there has been failure of natural justice or other vitiating circumstances making the enquiry in the domestic forum a mere farce or undependable. Where the procedure for full and fair hearing is meticulous, the decision of a domestic forum must be respected. The labour court considered the various objections raised in relation to the defects in the enquiry and ruled out all of these. It was not the case of the petitioners that there was no evidence against all the petitioners. All that they said was that none of the witnesses had stated anything against two of the petitioners. That was considered by the labour court which held that this allegation was not well-founded. It follows necessarily that the evidence as adduced before the domestic forum did contain sufficient material for an adverse finding against the petitioners and to prove that the incidents complained of were true. In these circumstances, there was no occasion for the labour court to reopen the matter or review the evidence and come to its own conclusion on the merits of the case.

5. It cannot be gainsaid that the principles of natural Justice were strictly followed. The petitioners were given notice in good time of the charges against

them and they were given full opportunity of being heard. There Is no basis for the allegation that the enquiry officer was a judge in his own cause or had bias against the petitioners and in fact that assertion has been disproved. In these circumstances, when the domestic forum had come to a definite conclusion about the truth of the incidents and misconduct of the petitioners and awarded a punishment which was within their power to award and can In no way be said to be out of all proportion to the gravity of the offence, the labour court was right in holding that the order of dismissal was justified. I, therefore, find no reason to allow this petition.

6. The writ petition is accordingly dismissed. No costs.