

(1988) 11 KL CK 0016

In the High Court Of Kerala

Case No : O.P. No"s. 6733 and 6170 of 1986

West India Steel Company Ltd.

APPELLANT

Vs

Azeez

RESPONDENT

Date of Decision : 15-11-1988

Acts Referred:

Citation : (1990) 60 FLR 802 : (1990) 2 LLJ 133

Hon'ble Judges : K. Sukumaran, J

Bench : Single Bench

Advocate : B.S. Krishnan, for the Appellant; K.P. Dandapani, for the Respondent

Final Decision : Dismissed

Judgement

Sukumaran, J.—Two writ petitions challenge the award of the Labour Court by which a substantial finding of guilty in a domestic enquiry was upheld by the Labour Court, but the punishment modified as one from dismissal to that of discharge. The management is aggrieved because the Labour Court has diluted the rigour of the punishment.

The workman says that he should have been reinstated with backwages.

2. The gravamen of the charge is that the workman, President of the Trade Union, caused obstruction to the work in the factory for about five hours, when a particular worker, Krishnan, was deputed for work in the millets clearing section.

3. In the enquiry there was evidence, direct evidence, on that aspect. The Assistant Foreman was a witness. He spoke in terms of the charge. The entirety of the evidence was placed before the Labour Court. If the evidence is accepted, the charge is clearly established.

4. According to the workman, he had kept out of the enquiry when there was an indication about the deviation of the management from settled norms of proper conduct of domestic enquiry. This, according to him, consisted in the Works Manager attempting to give evidence before other witnesses were examined.

According to the petitioner, this was intended to create an atmosphere of terror and possibly to have a brain wash of the other witnesses. The Labour Court was not impressed by these arguments. It found that the enquiry is not vitiated for any failure of the principles of natural justice and that the finding of the management is fully justified by the evidence in the case. The Court has gone through the various materials and declined to reject the direct and substantial evidence given by the Asst. Foreman.

5. On the materials disclosed, I am satisfied that the conclusion come to by the Labour Court is perfectly justified. No case has been made out for interference with that finding.

6. Counsel for the petitioner submitted that another worker, Mr. Dasan, against whom a memo had been issued, had been dealt with leniently. That is on a different charge. It is unnecessary for this Court to consider the question whether the management had been more than soft in dealing with that person. There is all the difference between a person merely defaulting to do work on the one hand and another person causing an obstruction in the discharge of the normal and ordinary duties of a workman in an industrial establishment. There is indeed a live and real difference as regards the charges between those alleged against Mr. Dasan and those against the present petitioner. That circumstance would clearly make out a good cause for the differentiation in relation to the punitive measure to be adopted by the management. This contention is also of no avail for upsetting the award of the Labour Court.

7. Paragraph 17 of the award of the Labour Court would throw some light into the antecedents of the petitioner. He appears to be under the impression that the President of a Trade Union is superior to the Managing Director of an industrial establishment. It is high time that those thinking in those lines are clearly disabused of their erroneous impressions. Indisciplined and ill-informed trade union leadership will only be a stigma to the enlightened working class of the State, endowed with extra-ordinary intelligence and expertise in their crafts and work. A worker, inside the factory, is bound to obey the reasonable instructions given to him by the superiors. He is bound to carry out the duties duly assigned to him. The mere fact that he is a trade union leader does not confer on him any impunity in that regard. Orders given or instructions issued by managerial superior can be disobeyed or disregarded by the workers only at their peril. Of course, in espousing the cause of the workman and the vindication of the legitimate demands, the worker trade union leader can fight and fight fiercely. A trade union leader, not sharing managerial powers, should refrain from ordaining the affairs of the establishment; this is for the reason that under the law he had not been conferred with any such power. In relation to the technical matters, it is essential that only technically qualified personnel manage such matters. To attend to complicated manufacturing details, an expert may be ordinarily available in any substantial establishment. In relation to ordinary duties and management of the work, officers, according to the hierarchical positions and

disciplines are assigned for attending to such duties. It is certainly not for the trade union leader to dictate to any worker individually or to the workmen generally, about the manner in which they have to do their work or discharge their duties as duly fixed. A trade union can espouse the cause of the workmen for change in the existing pattern of discharge of duties; they can even resort to lawful agitations for vindicating their rights. But its officials are not entitled to order a workman to stop his work or otherwise obstruct the work of the establishment. The management, it would appear, had suffered silently the earlier transgressions of this trade union official. Unprincipled acquiescence on the part of the corrective forces provide the ideal climate for antisocial forces to grow up quickly like an upas, difficult to be axe at that grown-up stage. In the present case, the Management has, at long last, proceeded against the delinquent properly, and dealt with him effectively. The Labour Court too has acted gradedly and correctly. In such a situation, this Court should not interfere. Declining the writ jurisdiction is in the interest of justice in the particular case: and in the larger interests of the State itself poised for hectic expansion in the industrial field.

8. The Labour Court declined to uphold the extreme penalty of dismissal. It has reduced the punishment to discharge. Having regard to the circumstances, I am not satisfied that this Court should rush to interfere with that exercise of discretion.

9. I dismiss both the writ petitions, but without any order as to cost in either of them.