

CASE NO.:
Appeal (civil) 1359 of 2008

PETITIONER:
M/s. Bihar Caustic and Chemical Ltd

RESPONDENT:
Lallandeo Singh

DATE OF JUDGMENT: 18/02/2008

BENCH:
ASHOK BHAN & DALVEER BHANDARI

JUDGMENT:
JUDGMENT

O R D E R

CIVIL APPEAL NO.1359 OF 2008
[Arising out of S.L.P.(C)No.11109 of 2006]

Leave granted.

The respondent was working as a security guard. While he was on duty, the Managing Director of the appellant-company was assaulted by three workers. The respondent failed to take any preventive action against the miscreants. Consequently, a charge-sheet was issued against the respondent for the said act of misconduct. Since the respondent refused to accept the charge-sheet, another charge-sheet was issued against him. He tendered his reply to the first charge-sheet. The explanation offered by him was not found satisfactory and a domestic enquiry was held against him. He was found guilty of misconduct. On the basis of the findings of the enquiry officer, the respondent was dismissed.

Action had been taken against the respondent in an earlier case. Hence, he raised a n industrial dispute and the reference was pending before the Industrial Tribunal. The Management filed an application under Section 33(2)(b) of the Industrial Disputes Act 1947 seeking approval of the action of

C.A.No.1360/08 (Contd.)
- 2 -

dismissal taken against the respondent for not preventing the miscreants from assaulting the Managing Director. The Industrial Tribunal dismissed the application thereby declining the approval of the action taken by the appellant.

Aggrieved by the said order, the appellant filed a writ petition before the High Court which was dismissed by a learned Single Judge. The Management thereafter filed a Letters Patent Appeal.

During the pendency of the Letters Patent Appeal being L.P.A.No.847 of 2003, a settlement was arrived at between the Management and the workman and an application, viz., I.A.No.1072 of 2004 in LPA No.847 of 2003 was filed by the appellant seeking disposal of the LPA in terms of the settlement arrived at between the parties. It was stated

in the application that a sum of Rs.4,65,000/- had been paid to the respondent-workman vide two cheques, namely, Cheque No.671163 dated 15.5.2004 for an amount of Rs.4,29,285/- and Cheque No.620597 of the same date for an amount of Rs.35,715/- drawable at State Bank of India, Rehla thus making a total of Rs.4,65,000/- towards provident fund dues. The Division Bench, however, without taking note of the application for settlement, disposed of the LPA by affirming the order of the learned Single Judge. The said order is in challenge before us.

Notice was issued in the matter on 07th July 2006. However, counter affidavit has not been filed in the matter so

C.A.No.1360/08 (Contd.)

- 3 -

far. It seems that the respondent-workman has not filed the counter affidavit because of the settlement arrived at between the parties.

In view of the fact that a settlement has already been arrived at between the parties which is not controverted by either of the parties, we set aside the order passed by the Division Bench of the High Court and hold that the appeal before the High Court shall be deemed to have been disposed of in terms of the settlement arrived at between the parties, the terms of which are mentioned in I.A. No.1072 of 2004 in L.P.A.No.847 of 2003.

The appeal is allowed accordingly. No costs.

JUDIS