

CASE NO.:
Appeal (civil) 3670 of 2003

PETITIONER:
Onkar Nath Misra

RESPONDENT:
State of Haryana & Anr.

DATE OF JUDGMENT: 17/03/2005

BENCH:
N.Santosh Hegde, B.P.Singh & S.B.Sinha

JUDGMENT:
J U D G M E N T

SANTOSH HEGDE, J.

The appellant herein and some others were charged for certain misconduct of gheraoing some senior officers of the Company for long hours. It is also stated that during the gherao one of the officers, Manjeet Singh, received injuries. In a domestic enquiry conducted by the Management, the charge-sheeted employees were found guilty and they were dismissed from their service.

On a reference being made in regard to the dismissals including that of the appellant, the Industrial Tribunal-cum-Labour Court-I Faridabad by its award dated 24th of April, 2001 rejected the claim of the workmen, except in regard to one Pradeep Sharda whose claim was allowed. In regard to other workmen including the appellant herein the Labour Court believed the evidence of the Management witness Pritam Singh as also other materials produced as Ext.M-11 to M-15. On that basis the Labour Court came to the specific conclusion that the Management has established that the workmen named therein including the appellant took an active part in the gherao of H.S.Dhaliwal the then Vice-President (Works) and also caused injuries to Manjeet Singh one of the officers who was also gheraoed. Having come to the said conclusion and taking into consideration the gravity of the offence the Labour Court also came to the conclusion that the punishment of dismissal was justified on the facts and circumstances of the case.

The award of the Labour Court came to be challenged by the appellant and one Megh Singh by way of two writ petitions before the Punjab and Haryana High Court which by a common judgment dismissed both the writ petitions. The High Court in the course of its order agreed with the Labour Court that the evidence produced by the Management marked as Ext. M-6 as also the documentary evidence Ext. M-11 to M-15 coupled with the evidence of Shri B.K.Uppal Vice-President clearly established the misconduct alleged against the writ petitioners before it. Learned counsel appearing for the petitioners had argued before the High Court that the Labour Court discriminated between them and Pradeep Sharma whose punishment was not upheld by the Labour Court even though the evidence in regard to all of them stood on a similar footing. The High Court agreed with the finding of the Labour Court that the case of the petitioners before it and Pradeep Sharma did not stand on the same footing inasmuch as from the material produced before the Labour Court it was clear that Pradeep Sharma was falsely involved, while the misconduct alleged against the writ petitioners had been duly established. It also did not accept the argument of the learned counsel for the petitioners that the punishment was in any manner disproportionate to the misconduct

proved.

Against the common judgment in the two writ petitions, referred to herein above, two SLPs. were preferred before this Court and this Court while entertaining the same at the preliminary stage granted leave in respect of the present appeal only and rejected the other petition. Therefore, Civil Appeal No. 3670 of 2003 pertaining to the Onkar Nath Misra is before us for consideration.

Learned counsel appearing for the appellant seriously contended that from the entire material produced before the Labour Court in the form of Ext.M-11 to M-15 as well as the evidence of Pritam Singh and B.K.Uppal, the Management had failed to establish the alleged misconduct. He also contended that there was absolutely no difference in the evidence produced by the Management between the case of the appellant and Pradeep Sharma who has been granted relief by the Labour Court. Per contra, the learned counsel appearing for the respondent pointed out that the Labour court has taken into consideration the evidence brought on record during the domestic enquiry as also the material available before it and has rightly come to the conclusion that so far as the appellant is concerned his involvement in the gherao was clearly proved. He submitted the fact that Pradeep Sharma the other workman was exonerated of the misconduct alleged against him would not by itself further the case of the appellant in any manner, hence, the appellant is not entitled for relief in this appeal. We have perused the order of the Labour Court and the reasoning given therein which was reconsidered by the High Court and we are in agreement with the finding of the tribunal as well as by the High Court that from the material on record it is established that the appellant did take part in the gherao of the officers in which injury was caused to one of them. In such circumstances there is no reason for us to interfere with the impugned order. The appeal is dismissed.