

CASE NO.:
Appeal (civil) 685 of 2006

PETITIONER:
Tata Engineering and Locomotive Company Limited

RESPONDENT:
N.K. Singh

DATE OF JUDGMENT: 08/11/2006

BENCH:
ARIJIT PASAYAT & S.H. KAPADIA

JUDGMENT:
JUDGMENT

ARIJIT PASAYAT, J.

Appellant calls in question legality of the judgment rendered by a Division Bench of the Jharkhand High Court dismissing Letters Patent Appeal filed by the appellant.

Background facts as projected by appellant in a nutshell are as follows:

The respondent who was working as Assistant Store Keeper, was in unauthorized occupation of quarter belonging to the appellant-company. A suit for vacation was filed by the appellant which was decreed in his favour. When the Town Warden (Sri A.K. Banerjee) went to execute the decree along with Nazir of Civil Court he was assaulted by fists and bricks. Shri A.K. Banerjee, suffered serious injuries. In the domestic inquiry the respondent was found guilty of misconduct and was dismissed from service. With reference to alleged incident on 17.10.1984, First Information Report was lodged alleging commission of offences punishable under Sections 311 and 307 read with Section 34 of the Indian Penal Code, 1860 (in short the 'IPC'). Allegation was that the respondent as well as others on his instigation assaulted Shri A.K. Banerjee and he was also threatened with dire consequences. On 23.10.1984 charge sheet-cum-notice of inquiry was issued and served on the respondent under the Works Standing Orders of the appellant, particularly under Standing Order 24, sub Clauses (xvi) and (xxxii) asking him to show cause to furnish his explanation and appear at the inquiry. Said Sub-clauses of Clause 24 read as under:

"Without prejudice in the general meaning of the 'misconduct'.....(xvi) Drunkenns fighting or riotous or disorderly or indecent behaviour or any acts subversive of discipline or efficiency' (xxxii) Threatening or intimidating any employees".

The respondent submitted his explanation on 27.10.1984. After considering the explanation to be unsatisfactory, domestic inquiry was held and at the conclusion of the domestic inquiry, Inquiry Officer submitted a report holding the respondent to be guilty of misconduct. After perusal of the report and inquiry proceedings, the General Manager of the appellant-company ordered dismissal of the respondent from service of the company w.e.f. 25.10.1984 i.e. the date of issue of charge-sheet in terms of Standing Orders.

A dispute as raised by the respondent and reference was made by the State Government under Section 10(1)(C) of the Industrial Disputes Act, 1947 (in short the 'Act'). The terms of reference were as follows:

"Whether the termination of services of Shri. N.K. Singh ticket No. 9956/08843/1 workman of Tata Engineering of Locomotive Company Ltd., Jameshedpur is justified? If not, whether he is entitled to re-instatement

and for any relief's?"

That on the notice in the reference case, the petitioner and respondent workman submitted their respective claims. In the meanwhile, the application was filed by the petitioner to decide the validity of the domestic enquiry as preliminary issue."

The appellant and the respondent submitted their respective claim. An application was filed by the appellant to decide the preliminary issue as to the validity of the domestic inquiry. On 6.3.1987 the respondent was acquitted in the criminal case on the ground of lack of evidence.

By order dated 17.6.1995 the Labor Court decided the validity of the domestic inquiry conducted and held that same was fair, proper and in accordance with the principles of natural justice. By order dated 5.1.1996 award was passed by the Labor Court setting aside the order of dismissal and directing respondent's reinstatement with full back wages. Though it was held that the charge of misconduct levelled against the respondent was established, the order of dismissal was disproportionate to the charge proved. Therefore, reinstatement with payment of half of the back wages was directed. Appellant filed a writ petition before the High Court. Learned Single Judge partially allowed the writ petition directing that half of the back wages was to be paid from the date of award. As noted supra, Letters Patent Appeal was dismissed. It was noted that one R.P. Singh who stood on identical footing was directed to be reinstated with half back wages.

In support of the appeal learned counsel for the appellant submitted that the High Court has fallen into grave error by setting aside the order of dismissal and directing reinstatement and payment of 50% back wages.

R.P. Singh's case is distinguishable on facts. The facts on record clearly show that the respondent was guilty of misconduct. The Labour Court having found that the domestic inquiry was fair, proper and in accordance with the principles of natural justice should not have interfered with the order of dismissal. The High court clearly missed to notice that the charges were serious in nature.

Learned counsel for the respondent on the other hand submitted that the High Court has taken a practical and reasonable view and the order of dismissal was clearly disproportionate to the alleged misconduct.

We find that the Labour Court has found the inquiry to be fair and proper. The conduct highlighted by the management and established in inquiry was certainly of very grave nature. The Labor Court and the High Court have not found that misconduct was of any minor nature. On the contrary, the finding on facts that the acts complained of were established has not been disturbed. That being so, the leniency shown by the Labour Court is clearly unwarranted and would in fact encourage indiscipline. Without indicating any reason as to why it was felt that the punishment was disproportionate, the Labor Court should not have passed the order in the manner done. The case of R.P. Singh was not on a similar footing. He was one of the persons instigating whereas the respondent was the person who committed the acts. Therefore, the orders of the Labour Court as affirmed by the High Court cannot be sustained and are set aside. The order of dismissal from service in the disciplinary proceedings stand restored.

The appeal is allowed with no order as to costs.