

**(2003) 07 AHC CK 0202**

**Allahabad High Court**

**Case No:** Civil Miscellaneous Writ Petition No. 310 of 1985

U.P. State Electricity Board,  
Boilder Maintenance Division I,  
Hardauganj Thermal Project and  
Executive Engineer, Boilder  
Maintenance Division I,  
Hardauganj Thermal Project

APPELLANT

Vs

Presiding Officer, Labour Court,  
Bhartiya Mazdoor Sangh and  
Pyarelal

RESPONDENT

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**Date of Decision:** July 8, 2003

**Acts Referred:**

- Constitution of India, 1950 - Article 226
- Uttar Pradesh Industrial Disputes Act, 1947 - Section 25F

**Hon'ble Judges:** Anjani Kumar, J

**Bench:** Single Bench

**Advocate:** S.C. Budhwar and Anil Mehrotra, for the Appellant; A.S. Diwekar and S.C., for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

Anjani Kumar, J.

This writ petition was heard and dismissed by this Court on 8<sup>th</sup> July, 2003 for the reasons to be recorded later on. Now here are the reasons for dismissing the aforesaid writ petition.

2. The petitioner-employers aggrieved by the award of the Labour Court, Agra dated 18<sup>th</sup> May, 1984, passed in adjudication.

3. Case No. 142 of 1979, have approached this Court by means of present writ petition under Article 226 of the Constitution of India, copy whereof is annexed as

Annexure-"XIII" to the writ petition.

4. The following dispute was referred to before the Tribunal for adjudication :-

" Whether the termination of the service of Pyare Lal, Skilled Coolie with effect from 25.5.1971 by the employers was proper and/or legal? If not, to what relief/damages is he entitled."

5. After receipt of the reference, the Tribunal issued notices to both the employers as well as the employee-workman, who have put in appearance and filed written statements, rejoinder affidavits and also adduced oral as well as documentary evidence. After exchange of the pleadings, the labour Court framed the following additional issues :-

"(i) Is Bhartiya Mazdoor Sangh, Madharpura, Aligarh competent to raise the present dispute?

(ii) Has Section 25-F been violated in the matter of termination of the services of workman Pyarey Lal on the basis of Criminal misconduct? If so, its effect?

(iii) Did the employers not conduct the domestic enquiry against the workman on the basis of charge/sheet? Or whether the domestic enquiry was fair or proper? If yes, its effect?"

The issue No. 1 was decided in favour of the workman by the order dated 21st December, 1983. The issue No. 3 with regard to holding the domestic enquiry conducted by the employers was decided vide order dated 3rd April, 1984 and it was found by the labour Court that the domestic enquiry conducted against the workman was not fair and proper and the labour Court allowed the employers to adduce evidence to prove the charges levelled against the workman concerned as is apparent from the order sheet dated 27<sup>th</sup> January, 1984. The employers submitted that the evidence adduced by the employers on the preliminary issues may be deemed to be their entire evidence and as such the case may be disposed of accordingly. The issue No. 2 was regarding the matter as to whether the employers have followed the provisions of Section 25-F of the U.P. Industrial Disputes Act, 1947 while terminating the services of the workman concerned or not. The labour Court thereafter found that since the workman concerned was involved in a criminal case, in which he was convicted by the criminal Court. In view of the law laid down in the case reported in 1976 (32) FLR it is because of the aforesaid misconduct which has ultimately resulted in the termination of services of the workman concerned after the departmental enquiry, therefore the question of violation of provision of Section 25-F of the Act, does not arise. The labour Court held that the only question left for determination by the labour Court is the quantum of punishment. Since the labour Court has already held the workman guilty and released on probation. The case against the workman concerned has been going on since, 1971 and for the misconduct the labour Court held punishment of dismissal too severe. The labour

Court therefore arrived at the conclusion that in the circumstances reduction of the workman to the basic pay of scale in 1871 would meet the ends of justice and would be adequate punishment for the workman he is entitled to reinstatement with the aforesaid punishment. With regard to back wages, the labour Court has said that normally relied of Cull back wages on reinstatement will not apply to the case of the workman concerned, therefore the workman has been held to be entitled only half of the back wages. It is this award, which has been challenged by the petitioner-employers by means of instant writ petition.

6. In the teeth of the findings recorded by the labour Court, though an effort was made by learned counsel appearing on behalf of the petitioner and tries to submit that the findings arrived at by the labour Court are vitiated, but to me it appears that if the argument advanced by learned counsel for the petitioner is accepted, the entire award will be held vitiated, On the other hand, I do not find any error committed by the labour Court in arriving at the conclusion, as stated above, so as to warrant any interference by this Court in exercise of its powers under Article 226 of the Constitution of India.

7. In view of what has been stated above, this writ petition being devoid of any merits and is accordingly dismissed. The interim order, if any, stands vacated. However, the parties shall bear their own costs.