

**U.P. State Electricity Board, Boilder Maintenance Division I, Hardauganj
Thermal Project and Executive Engineer, Boilder Maintenance Division I,
Hardauganj Thermal Project Vs Presiding Officer, Labour Court, Bhartiya
Mazdoor Sangh and Pyarelal**

Court: Allahabad High Court

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

Judgement

Anjani Kumar, J.

This writ petition was heard and dismissed by this Court on 8th 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 18th 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 27th 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 termination 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 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 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 1971 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 on 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.