

(2009) 08 JH CK 0009
Jharkhand High Court
Case No: None

Samin Ansari

APPELLANT

Vs

Hindustan Steel Works
Construction Ltd.

RESPONDENT

Date of Decision: Aug. 11, 2009

Hon'ble Judges: Sushil Harkauli, J; Jaya Roy, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. We have heard both sides and gone through the order of the learned Single Judge.

2. Petitioner-appellant was a workman with the respondent that is Hindustan Steel Works Construction Ltd. He was issued a charge-sheet dated 24.9.90 which is reproduced below:

You are charged with having committed the following acts of misconduct:

1. Commission of an act subversive of discipline.
2. Carrying on private business prejudicial to the Company's interest.

The above charges are based on the statement of allegations enclosed.

The above amount to acts of misconduct in accordance with Rules 26(x) and (xiv) of the Certified Standing Orders of the Company. You are directed to submit to the undersigned your written explanation within ten days from the receipt of the charge sheet and to show cause why the charges should not be established and why appropriate penalty including dismissal should not be imposed. Any explanation that you may make shall be taken into consideration before taking further action. In case you fail to submit any explanation within the stipulated period, it would be

presumed that you have nothing to say in your defence and further action on the merit of the case would be taken against you without any further reference.

3. The details of the charges were spelt out in the document accompanying the charge-sheet which are also reproduced below:

Shri Samin Ansari, SW(W5), P. No. 12271 has been working in HSCL since 27.11.71. On verification, it has been found that he applied on 15.5.85 for allotment of a low costg shop to run a Grocerty-cum-General Provision Shop, against advertisement No. TA/A/11/8/0598 dated 3.4.1985 published by SAIL, BSP, B.S. City. In this connection, Shri Ansari concealed the fact of his brother"s employment in BSP and made false declaration regarding his own employment in HSCL.

In furtherance of private business Sri Ansari applied for licence for a Ration shop and deposited Rs. 50/- (Rs. fifty) only in T.C. Form No. 8 in the State Bank of India, Dhanbad on 4.3.86.

Sri Ansari has entered into correspondence with SAIL, BSP in connection with allotment of a shop.

He has been allotted shop No. 6 (LCS) in Sector IX by the Town Administrator, SAIL, BSP, B.S. City vide allotment order No. TA/A/Allot/Shop/LCS/IX/6/85-0483 dated 28.2.1986 in his own name.

Shri Ansari has been running private business in the Shop No. 6, LCS, Sector IX, B.S. City after taking possession of the said shop on 12.3.86.

The above acts of Sri Ansari amount to misconduct under Clause Nos. 26(x) and (xiv) of the Certified Standing Orders by which Shri Ansari is governed.

4. The petitioner-appellant was found guilty in the domestic enquiry and was terminated. The matter was taken before the Labour Court by way of Reference Case No. 08 of 1992. The Labour Court directed reinstatement of the petitioner-appellant by its judgment dated 24.5.96. The employer approached this Court by way of Writ Petition which was dismissed by a learned Single Judge. The employer persisted in Letters Patent Appeal being L.P.A No. 127 of 1997, which was allowed by a Division Bench by its judgment and order dated 1.5.97. By that judgment, the appellant/workman was found guilty of all the charges, but the Division Bench felt that the punishment of dismissal was disproportionate and the matter was sent back to the employer for reconsideration of the punishment. The decision of the Division Bench was upheld by the Supreme Court vide order dated 28.8.97 in SLP No. 14888 of 1997.

5. Upon remand by the Division Bench, the Management imposed the following punishments:

1.) A Major Penalty of lowering by three stages of the basic pay of the Workman as on 5.10.98 for a period of three years.

2.) The backwages for the period from 12.12.1991 to 4.10.1998 was denied on the ground that the same can be considered as per period of "Non Duty.

6. Against the said punishment, the petitioner-appellant preferred Writ Petition being C.W.J.C No. 3571 of 2000, which was decided by a learned Single Judge of this Court by judgment dated 4.3.2003, in which, the punishment was upheld, except for certain minor modifications regarding the dates, which were in the nature of clerical errors in the impugned order of punishment.

7. This appeal has been filed against the order of the learned Single Judge dated 4.3.2003. After hearing the learned Counsel for the petitioner-appellant, we do not find, having regard to the nature of misconduct alleged against the petitioner-appellant and found proved by the Division Bench, that the punishment imposed is so grossly disproportionate to the said misconduct as to shock the conscience of the Court and could hence form a ground for interference under writ jurisdiction.

8. The learned Counsel for the petitioner-appellant submitted that the petitioner-appellant has subsequently taken voluntary retirement and much emphasis was laid during the argument on the denial of backwages. Admittedly, the petitioner had not served during the period, for which, the backwages are being asked for.

9. Considering the allegation against the petitioner-appellant, the denial of backwages for the said period, is also not totally disproportionate to the misconduct so as to warrant interference in writ jurisdiction of the High Court.

10. In the circumstances, we do not find any such error in the impugned order of the learned Single Judge which would call for the interference in this appeal. Accordingly, this appeal is dismissed.