

Suresh Paswan Vs Bharat Coking Coal Ltd. and Others

Court: Jharkhand High Court

Date of Decision: Feb. 9, 2001

Citation: (2001) 90 FLR 450

Hon'ble Judges: S.N. Mishra, J

Bench: Single Bench

Advocate: Anil Kumar Sinha, M.K. Sinha and A. Kumar, for the Appellant; A.K. Mehta and A.K. Sinha, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

S.N. Mishra, J.

After having heard the learned counsel of the parties and going through the pleadings filed on their behalf, this writ

application is being disposed of at the time of admission itself. In this writ application, the petitioner has challenged the order dated 11.12.1998

passed by the respondent-authority whereby the services of the petitioner has been terminated in terms of clause 28 of the Certified Standing

Orders of BCCL. The sum and substance of the allegation made against the petitioner is that he abused and assaulted the Deputy Chief Medical

Officer, with lathi when he objected the petitioner forcibly trying to mark his attendance for the period for which he remained absent. As stated

above, the services of the petitioner was terminated in terms of Clause 28 of the Standing Orders, which reads thus :--

Clause 28. Special procedure in certain cases.--Where a workman has been convicted for a criminal offence in a Court of law or where the

Chairman/Managing Director of the Company is satisfied, for reasons to be recorded in writing, that it is expedient or against of (sic) security to

continue to employ the workman may be removed or discharged from service without following the procedure laid down in Standing Order No.

27.

2. Learned counsel for the petitioner has challenged the order on the ground firstly, that the Clause 28 of the Standing Orders is not applicable in

the facts and circumstances of the case, inasmuch, as reasons has not been recorded that if his service is allowed to continue it would be against

security of the Company and secondly, while passing the impugned order principles of natural justice has not been followed by the respondent-

authority. It may be stated here that vires of Clause 28 of the Standing Orders was under challenge before this Court which has been negated by

its Judgment and order dated 25th January, 2000, Learned counsel for the petitioner in support of his contention has relied upon the decision in the

case of Union of India and Another Vs. Tulsiram Patel and Others, . The decision relied upon by the learned counsel is not applicable in the facts

and circumstances of this case, inasmuch, as the question involved in the aforesaid decision was entirely different. The services of the petitioner was

terminated in accordance with Clause 28 of the Standing Order which merely envisages that if the authority comes to the conclusion that the

continuation of the employee in service is against the security of the company, the workman may be discharged and/or removed from the service

and in that view of the matter, the protection under Article 311(2) will not be available to the petitioner. In a similar situation, the Apex Court has

held in the case of Hari Pada Khan Vs. Union of India and others, . to the effect that where the authority is satisfied for the reasons to be recorded

in writing that the continuation of the workman in service was neither expedient nor in the interest of the security, services can be terminated in

terms of the Standing Order and in such case no departmental enquiry is necessary. It has further been held that the principles of natural justice is

also not applicable in such a case. In this case, as stated above, services of the petitioner was terminated in accordance with Clause 28 of the

Standing Orders. The respondent-authority has specifically recorded to the effect that the continuation of the petitioner in service is against the

interest and security of the establishment. Accordingly, I am not inclined to interfere with the order impugned in this writ application. Thus, this writ

application is dismissed. However, it goes without saying that the petitioner, if so advised, may raise the industrial dispute in accordance with law.

3. Application dismissed.