

(2002) 08 JH CK 0051

Jharkhand High Court

Case No: CWJC No. 3272 of 1994 (R)

Employees in Relation to the
Management of Captive Power
Plant of Moonidih Area of Bharat
Coking Coal Ltd.

APPELLANT

Vs

Their Workmen represented by
Janta Mazdoor Sangh Bihar
Building and Others

RESPONDENT

Date of Decision: Aug. 22, 2002

Hon'ble Judges: Tapen Sen, J

Bench: Single Bench

Advocate: A.K. Mehta, for the Appellant; S.K. Ughal, for the Respondent

Judgement

Tapen Sen, J.

Heard Mr. A.K. Mehta learned counsel for the petitioner and Mr. S.K. Ughal, learned counsel for the respondents.

2. The allegation against the concerned workman (General Mazdoor of Captive Power Plant under Moonidih Area of M/s. BCCL Ltd.) is that he entered the security office of the Moonidih Area and abused one Shri Ram Deo Rai in filthy language. He also caught hold of his collar which was consequently torn and then he assaulted Shri Ram Deo Rai, as a result of which the latter had to be hospitalised for pain and fever. The finding of the Presiding Officer, Central Government Industrial Tribunal (No. 2), Dhanbad after having looked into the evidences and records was that there was absolutely no occasion to interfere with the findings recorded by the Enquiry Officer. However, in the matter relating to quantum of punishment the Presiding Officer ordered as follows :--

"I have heard the learned counsels of both the sides. No doubt the concerned workman was held to be guilty for causing assault and hurling filthy language upon Shri Ram Deo Rai, his superior but in my considered opinion, the concerned

workman should be reprimanded and be given an opportunity to amend his behaviour with alternate punishment. In the circumstances, the order of dismissal passed by the management on 8.3.1990 is set aside and the concerned workman is directed to be reinstated to his original post within 2 months from the date of publication of the Award. But his two future increments will be withheld permanently. In the circumstances of the case there can be no order of any backwages. However, continuity of service will be maintained."

3. After having heard the learned counsel for the petitioner and learned counsel for the respondents, it is apparent that charges against the petitioner was abusing Shri Ram Deo Rai and catching hold of his collar whereby the said collar was torn. The other charge is that he assaulted Shri Ram Deo Rai on the chest as a result whereof Shri Ram Deo Rai had to be hospitalised for pain and fever. This shows that the assault was neither a grave nor lethal assault. Consequently, the Presiding Officer was correct in coming to a conclusion that the punishment of dismissal was disproportionate. However, the Labour Court should not have himself inflicted the punishments of permanently withholding two future increments. After having held that the punishment of dismissal was disproportionate, the Presiding Officer should have left the matter entirely to the discretion of the management to consider as to what other lesser punishment would suffice.

4. In that view of the matter, while upholding the finding of the Presiding Officer and while upholding his Award to the effect that the punishment of dismissal was disproportionate, this Court, however, modifies the Award only to the extent that the management will now have complete liberty and freedom to consider as to what other lesser punishment they would like to inflict upon the respondent No. 2.

5. With the aforesaid modifications of the award, this writ petition stands disposed off.