Radha Kant Choudhary Vs Presiding Officer, Labour Court and Heavy Engineering Corporation Ltd.

Court: Jharkhand High Court

Date of Decision: Sept. 2, 2009

Citation: (2010) 58 BLJR 31 : (2010) 3 LLJ 530

Hon'ble Judges: M.Y. Eqbal, J; Jaya Roy, J

Bench: Division Bench

Advocate: Indrajit Sinha and Bibhash Sinha, for the Appellant; Rajiv Ranjan, for the Respondent

Final Decision: Dismissed

Judgement

1. This Letters Patent Appeal is directed against the judgment dated 14.11.2003 passed in C.W.J.C. No. 2812 of 1994(R) whereby the learned

Single Judge has dismissed the writ petition. In the aforesaid writ petition the appellant challenged the award passed by the Presiding Officer,

Labour Court Ranchi in Reference Case No. 04 of 1993 whereby he has upheld the order of dismissal from service of the appellant.

2. It appears that the appellant-workman was a Fitter in 06. Shop F.F.P. of the respondent-H.E.C. In August, 1979, the appellant along with

another was transferred to 02-Shop on the ground that there was no work in 06. Shop. The appellant raised objection to his transfer and after

about a month, he entered in the office of the Assistant Manager of 06. Shop and assaulted him by slapping on his face. The appellant was

thereafter put under suspension and a departmental proceeding was initiated against him on the following charges:

(i) By the office order dated 1.8.1979, the petitioner was relieved from 06-Shop for reporting at 02-Shop which he disobeyed. This amounted to

disobedience of lawful and reasonable orders of the competent authority;

(ii) The petitioner was to report to 02-shop w.e.f. 3.8.1979 but he did not do so and absented himself from duty without any prior information or

sanction of leave which amounted to willful absence from duty without leave or without sufficient cause;

(iii) On 3.09.1979 the petitioner entered the office of Shri G.V.V. Giri, Assistant Manager, 06-Shop and assaulted him by slapping on his face.

3. All the aforesaid charges were proved in the departmental proceeding and the appellant was dismissed from service. A departmental appeal

was filed but that too was dismissed. Thereafter the matter came to the Labour Court on the basis of industrial dispute raised by the appellant. The

Labour Court, after re-appreciation of the entire evidence, came to the conclusion that the charges levelled against the appellant have been proved

and the reference was answered accordingly. The appellant thereafter challenged the said award by filing a writ petition being C.W.J.C. No. 2126

of 1989(R). On a short question, the writ petition was allowed and the Labour Court was directed to pass a fresh order. The Labour Court in

compliance of the aforesaid direction heard the matter and passed the award upholding the order of dismissal. The appellant then again challenged

the said award by filing C.W.J.C. No. 2812 of 1994(R). The learned Single Judge after re-appreciating the entire evidence and after hearing the

parties, dismissed the writ petition holding that neither there is any illegality, irregularity or perversity in the finding recorded by the Labour Court.

4. We have heard Mr. Indrajit Sinha, learned Counsel appearing for the appellant, who assailed the impugned judgment passed by the learned

Single Judge as also the award passed by the Labour Court on the ground that the punishment by way of dismissal from service is disproportionate

to the charges levelled against the appellant. However, the learned Counsel has not disputed the fact that all the three charges including assaulting

the Manager by giving a slap has been proved as held by the Labour Court. On these admitted positions, the only question that falls for

consideration is as to whether this Court can interfere with the award passed by the Labour Court who has upheld the order of dismissal passed in

a departmental proceeding.

5. The question has no longer res integra. The Supreme Court in the case of Bank of India and Another Vs. Degala Suryanarayana, has discussed

the scope of judicial review of the High Court exercising writ jurisdiction with the finding of fact arrived at in the departmental inquiry. Their

Lordships observed:

11. Strict rules of evidence are not applicable to departmental enquiry proceedings. The only requirement of law is that the allegation against the

delinquent officer must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at

a finding upholding the gravamen of the charge against the delinquent officer. Mere conjecture or surmises cannot sustain the finding of guilt even in

departmental enquiry proceedings. The court exercising the jurisdiction of judicial review would not interfere with the findings of fact arrived at in

the departmental enquiry proceedings excepting in a case of mala fides or perversity i.e. where there is no evidence to support a finding or where a

finding is such that no man acting reasonably and with objectivity could have arrived at that finding. The court cannot embark upon reappreciating

the evidence or weighing the same like an appellate authority. So long as there is some evidence to support the conclusion arrived at by the (sic)

769 departmental authority, the same has to be sustained. In Union of India v. H.C. Goel the Constitution Bench has held:

[T]he High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of

the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This

approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence legally the impugned

conclusion follows or not.

6. In the case of Hombe Gowda Edn. Trust and Another Vs. State of Karnataka and Others, the delinquent was subjected to a departmental

proceeding on the allegation that he has assaulted the Principal of an educational institute. He was found guilty of the charges and was dismissed

from service. The departmental appeal filed by him was also dismissed. Thereafter, the proceeding came before the Tribunal. The Tribunal after re-

consideration of the evidence came to the conclusion that the charges have not been proved by cogent evidence. Against the said order, the mater

came before the Supreme Court at the instance of the Educational Trust. Discussing the principle of law with regard to interference in such a

matter, the Supreme Court held:

19. Assaulting a superior at a workplace amounts to an act of gross indiscipline. The respondent is a teacher. Even under grave provocation a

teacher is not expected to abuse the head of the institution in a filthy language and assault him with a chappal. Punishment of dismissal from

services, therefore, cannot be said to be wholly disproportionate so as to shock one''s conscience.

20. A person, when dismissed from service, is put to a great hardship but that would not mean that a grave misconduct should go unpunished.

Although the doctrine of proportionality may be applicable in such matters, but a punishment of dismissal from service for such a misconduct

cannot be said to be unheard of. Maintenance of discipline of an institution is equally important. Keeping the aforementioned principles in view, we

may hereinafter notice a few recent decisions of this Court.

7. In the case of Union of India v. Narain Singh 2002 S.C.W. 2172, the Supreme Court held that when the charges are proved in a departmental

inquiry, then Court should not interfere with the quantum of punishment. Their Lordships held:

9. As seen above, the Division Bench notes that the charges against the respondent are proved and that the charges are of serious nature. Once the

Court came to the conclusion that the charges were proved and that the charges were of a serious nature, it was not the function of the Court to

interfere with the quantum of punishment. The Division Bench was wrong in holding that factors viz. (a) the person is coming from which place (b)

his family background, and (c) his service record etc. were to be kept in mind. In our view, the Division Bench was also wrong in holding that if a

poor person pleads guilty to the misconduct, then extreme penalty of dismissal is uncalled for. In our view a court must not lightly interfere with

sentences passed after a properly conducted enquiry where the guilt is proved. Reduction of sentence, particularly in military, paramilitary or police

services can have a demoralising effect and would be a retrograde step so far as discipline of these services is concerned. In this case the charges

being of a serious nature the penalty was commensurate with the charges. Further the Division Bench has itself noted that this was the third time the

respondent was punished.

8. Having regard to the fact that the charges have been proved in a departmental inquiry and after re-appreciation of the entire evidence, the

Labour Court has upheld the punishment imposed upon the appellant and in the light of the law laid down by the Supreme Court, we do not find

any reason to interfere with the award passed by the Tribunal. The learned Single has rightly dismissed the writ petition.

9. For the reasons aforesaid, there is not merit in this appeal which is, accordingly, dismissed.