

(2009) 02 JH CK 0101

Jharkhand High Court

Case No: None

Sardul Auto Works

APPELLANT

Vs

The Presiding Officer
and Another

RESPONDENT

Date of Decision: Feb. 11, 2009

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2009) 2 JCR 380

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

Bench: Division Bench

Final Decision: Dismissed

Judgement

M.Y. Eqbal, J.

Heard Mrs. Anubha Rawat Choudhary. learned Counsel appearing for the appellant. No one appears for the respondent.

2. This appeal is directed against the judgment dated 11.12.2002 passed in CWJC No. 1654/2001, whereby the learned Single Judge dismissed the writ petition and refused to interfere with the award passed by the Presiding Officer, Labour Court, Jamshedpur.

3. For better appreciation, the impugned Judgment passed by the learned Single Judge, is quoted herein below:

11.12.2002 Heard Mrs. A.R. Choudhary, the learned Counsel for the petitioner and Mr. Jai Prakash, learned Counsel for the respondent No. 2.

The petitioner is aggrieved by the award dated 6.4.2000 (Annexure 8) passed by the Presiding Officer, Labour Court, Jamshedpur, by reason whereof and taking into consideration the charge of habitual absenteeism he held that the punishment of dismissal from service was extremely harsh. Having held so the Labour Court directed

reinstatement with back wages but did not grant any back wages or salary from the date of dismissal to the date of reference i.e., 21.8.1990, the date of dismissal (as is evident from page 40) to 19.6.1992 (Annexure 5). In other words, he withheld the monetary benefits including salary and wages for about twenty two months.

Considering the fact that the matter relates to absenteeism, this Court, therefore is also not inclined to interfere with the award, taking into consideration that the Labour Court himself has granted reinstatement without back wages for the aforementioned period which according to this Court is sufficient for the ends of justice.

Apart from the aforesaid, it would be relevant to mention that the High Court under Article 226 of the Constitution of India does not exercise appellate jurisdiction. This Court does not find any gross illegality with the award. That apart in view of the judgment of the Supreme Court of India in the case of [Indian Overseas Bank Vs. I.O.B. Staff Canteen Workers" Union and Another](#), ; [Bank of India and Another Vs. Degala Suryanarayana](#), and also in view of ratio decided in the case of Kashi Nath Sharma v. Presiding Officer, Labour Court, Jamshedpur reported in (2002) 1 JLJR 15, this Court is not inclined to interfere with the impugned Award.

The Writ petition is dismissed. After the aforementioned order was passed, Mrs. A.K. Choudhary, learned Counsel for the petitioner submitted that there is no willingness on the part of the concerned workman to work. This Court is not in a position to make any observation on such submission of Mrs. A.R. Choudhary, save and except giving liberty to the Management to take appropriate action in accordance with law against the concerned workman if he once again repeats the same act.

4. Mrs. Choudhary, learned Counsel for the appellant assailed the impugned award mainly on the ground that while passing the order of reinstatement, back wages ought not to have been granted. Learned Counsel submitted that there is no willingness on the part of the concerned workman to work.

5. It appears that the concerned workman was dismissed on the charge of habitual absenteeism. The Labour Court, after holding that the punishment of dismissal from service is extremely harsh, set aside the dismissal order and directed reinstatement with back wages. The concerned workman filed the aforementioned writ petition against that part of the award whereby back wages after the period from the date of dismissal to the date of reference has not been awarded. The learned Single Judge did not interfere with the award.

6. After considering the facts of the case and the submissions made by the learned Counsel for the appellant, we do not find any error in the impugned judgment passed by the learned Single Judge, as the learned Single Judge has rightly held that the Labour Court although directed reinstatement but refused to grant any backwages from the date of dismissal to the date of reference.

For the aforesaid reason, there is no merit in this appeal, which is. accordingly, dismissed.

Jaya Roy, J.

7. I agree.