

State of U.P. Vs. Presiding Officer, Industrial Tribunal (1), Allahabad and anr.

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Court : Allahabad

Decided On : Jan-28-2002

Reported in : 2002(2)AWC1138; [2002(93)FLR414]; (2002)2UPLBEC1108

Judge : Anjani Kumar, J.

Appeal No. : C.M.W.P. No. 5975 of 1998

Appellant : State of U.P.

Respondent : Presiding Officer, Industrial Tribunal (1), Allahabad and anr.

Advocate for Def. : D. Kumar Pandey and ;R.P. Pandey, Advs.

Advocate for Pet/Ap. : Ashok Mehta, C.S.C.

Disposition : Writ petition dismissed

Judgement :

Anjani Kumar, J.

1. By means of present writ petition under Article 226 of the Constitution of India, the petitioner-employer has challenged the award dated 29.10.1996 and the orders dated 24.6.1996 and 9.9.1996, which have become part of the award, passed by respondent No. 1 in Adjudication Case No. 50 of 1994, Annexures-1, 2 and 3, respectively, to the writ petition.

2. The facts leading to the filing of present writ petition are as under. The State Government referred the following dispute to be answered by the Industrial Tribunal, which has been registered as Adjudication Case No. 50 of 1994, which runs as under :

^D;k Isok;kstdksa }kjk vius JfedJh lUr yky iq= Jh caxkyh dh Isok,a fnukad 30-3-1991 ls leklr fd;k tkuk mfpr rFkk@vFkok cS/kkfud gS ;fn ugha] rks lacaf/kr Jfed D;k fgrykHk@vuqrks'k ikus dk vf/kdkjh gS ,oe~ vU; fdl fooj.k lfgr **

3. By the order dated 24.6.1996, a preliminary issued was framed, which runs as under :

'Whether the domestic enquiry held is fair, proper and valid? If so, to what effect?'

4. The finding of the labour court with regard to the aforesaid preliminary issue recorded by Industrial Tribunal is that the enquiry officer has not followed the principles of natural justice in holding the enquiry, therefore, the enquiry stands vitiated. The issue is accordingly decided against the petitioner-employer and in favour of the workman concerned. Thereafter the workman filed an application 8A and petitioner filed objections 9A and 10A. This application and objection have been decided by the industrial tribunal vide its order dated 9.9.1996. Annexure-3 to the writ petition, wherein the industrial tribunal relying upon the decision in Shambhu Nath Goyal v. Bank of Baroda. 1983 (47) FLR 438 (SC), has held that the enquiry held by the employer was contrary to the provisions of natural justice and was not fair even if the application filed by the employer that they may be permitted to lead evidence to support their contention that the enquiry conducted by them was fair and proper is liable to be rejected and relying upon the aforesaid decision, the industrial tribunal has rejected the objection filed by the petitioner-employer 9A and 10A and application filed by the workman 8A concerned was allowed. This order has become final, which has been followed by the labour court in its award and arrived at the conclusion that the termination of the services of workman concerned by the employer cannot be sustainable, therefore, order of termination dated 3.3.1991 is improper, unfair, illegal, invalid and unjust. The workman was held entitled of reinstatement with continuity of service with full back wages and all other benefits, which he would have got in his services had not

been terminated illegally w.e.f. 30.3.1991. It is this order, which is under challenged by means of the present writ petition.

5. Learned counsel for the petitioner-employer has contended that since the workman concerned has been served with the charge-sheet and he has not submitted any explanation, it is now not open to the workman to challenge the report of the enquiry officer on the ground that no domestic enquiry was conducted. Needless to say that this contention has no force and deserves to be dismissed. The industrial tribunal has recorded findings with regard to all aspect of the matter, which cannot be gone into the proceedings under Article 226 of the Constitution of India. Learned counsel for the petitioner-employer has also not demonstrated that the same are perverse or supported by illegal and arbitrary fact. In this view of the matter, the findings recorded by the labour court do not warrant any interference by this Court under Article 226 of the Constitution of India.

6. In view of what has been stated above, this writ petition deserves to be dismissed and is hereby dismissed. The interim order, if any, stands vacated. However, parties shall bear their own costs.

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