

Ramesh Chand Vs. L.D. Malik and anr.

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SooperKanoon Citation : sooperkanoon.com/695385

Court : Delhi

Decided On : Dec-02-1985

Reported in : [1986(52)FLR629]; (1994)IIILLJ51Del

Judge : Yogeshwar Dayal, J.

Acts : [Industrial Disputes Act, 1947](#)

Appeal No. : C.M. (Main) No. 95 of 1985

Appellant : Ramesh Chand

Respondent : L.D. Malik and anr.

Disposition : Petition dismissed

Judgement :

Yogeshwar Dayal, J.

1. The petition under Article 227 of the Constitution of India is directed against the order of the learned Labour Court dated 8th March, 1985 whereby the learned Labour Court inter alias declined the request of the workman for examining Shyam Pal and Ram Brikash as his witnesses during the adjudication proceedings.

2. The petitioner/workman, Sh. Ramesh Chand, was dismissed by the Management of the Birla Cotton Spinning and Weaving Mills Ltd. for alleged

misconduct in taking bribe for getting an employment to one Lallan Singh with the Mills. There was domestic enquiry held which inter alias examined Shyam Pal and Ram Brikash on behalf of the Management and they supported the Management's case against the workman and after domestic enquiry the petitioner was dismissed. The Tribunal also gave approval to the action of the Management. However, on the request of the workman, the Administration made reference to the Labour Court to adjudicate whether the termination of the workman's services was illegal and improper.

3. In the statement of claim on behalf of the workman it was inter alias stated in paragraph 5 as under:-

'....Apart from the statement of Lallan Singh, Ram Brikash and Shyam Pal all the other witnesses clearly stated that the workman never demanded or asked any person to give him bribe or harass them.....'

Again in paragraph 9 of his statement of claim it was stated by the workman:-

'....Shri Lallan Singh, Ram Brikash and Shyam Pal who belong to Ektei Union* were not doing work properly and as such the workman sometimes pointed out regarding their too (sic) and as such they > hatched up a conspiracy to remove him his services. '

In Paragraph 10 it was further averred on behalf of the workman:-

'....It is pertinent to note that the inquiry conducted by the Management is not fair and in proper manner. It is submitted that the* statement made by the workman and his defense witnesses were not recorded as they stated in the evidence.'

4. While the evidence was going on the workman wanted to examine Shyam Pal and Ram Brikash. The reason for examining these two witnesses is that they would depose that they were pressurised to give statements to support the case of the Management in the domestic enquiry.

5. The learned Labour Court has declined to examine both the witnesses. The reason given in the order is that there is no such plea in the statement of case. I

am in complete agreement with the order of the learned Labour Court. I have already reproduced the case of the petitioner in the claim petition. There was no plea in the claim petition that these two witnesses of the Management were pressurised by the Management to depose against the petitioner. In fact the case is just the reverse as can be seen from paragraphs 5 and 9 of the claim petition, reproduced earlier.

6. Mr. A.C. Bhasin, learned counsel for the petitioner/workman submits that he had taken the plea that the enquiry was not fair and proper and this plea is open to him. It will be noticed that the bald plea like enquiry being unfair and improper does not advise the claim of the workman. He has to spell out how it is not fair and proper. However, the workman spelt out that it was not fair and proper as it is submitted that the statement made by the workman and his defense witnesses were not recorded as they stated in the evidence. There was no plea that the enquiry was not fair and proper because the Management had pressurised Shyam Pal and Ram Brikash to stand as witnesses against the workman. As I have noticed earlier paragraphs 5 and 9 are contradictory to the claim now set up for examining these two witnesses.

7. For the aforesaid reasons I am not inclined to interfere with the impugned order. The petition is accordingly dismissed. There is, however; no order as to costs of the present proceedings.