

The Divisional Manager Vs. the Labour Court of Quilon and

The Divisional Manager Vs. the Labour Court of Quilon and

SooperKanoon Citation : sooperkanoon.com/903366

Court : Kerala

Decided On : Apr-08-2010

Judge : S. Siri Jagan, J.

Appeal No. : W.P. (C). No. 233 of 2005 (C)

Appellant : The Divisional Manager

Respondent : The Labour Court of Quilon And; the General Secretary

Advocate for Def. : C.S. Manilal, Adv.

Advocate for Pet/Ap. : V.G. Arun, Adv.

Judgement :

S. Siri Jagan, J.

1. This writ petition is filed by the management in I.D. No. 2/1995 before the Labour Court, Kollam. The issue referred for adjudication was as follows:

Legality or otherwise of the denial of employment to Sri. Sivalinga Velu, worker by the Management of Kerala Forest Development Corporation.

2. From a reading of the Award, it is seen that the workman involved in the Industrial Dispute was convicted by a criminal court to undergo three months' imprisonment and a fine of Rs. 1,500/-. Therefore the workman did not attend

duties for sometime. His wife appears to have filed a leave application for the said period. But when the workman reported for duty, he was not allowed to work, which resulted in the Industrial Dispute and the Award. The Labour Court found that the criminal case related to some family dispute totally unconnected with his employment and therefore could not have been a ground for denial of employment. Therefore the Labour Court directed the management to reinstate the workman with 60% backwages. The management challenges the same.

3. The contention raised by the counsel for the management is that, a person convicted and punished for a criminal offence cannot be allowed to work in the management establishment. The learned Counsel for the 2nd respondent Union points out that, if the management wanted to dismiss the workman from service they should have atleast issued a dismissal order. They cannot simply say that he will not be admitted to duty. He would submit that if the dismissal was for unauthorized absence then a domestic enquiry should have been conducted and the workman should have been found guilty before imposing punishment on the workman. No such procedure was adopted by the management. He points out that he was taken to the prison on 24.09.1990 and on release from the prison, he reported for duty, when he was denied employment. Therefore according to him, there is nothing wrong with the award and the same does not call for any interference.

4. I have considered the rival contentions in detail. The petitioner has not been able to point out any law which permits the management to deny employment to a workman, who has been convicted of a criminal offence totally unconnected with his employment. Even assuming that, that was a ground for imposing punishment on the workman, the management should have at least issued him a show case notice and an order terminating him from service which has also not been done. As such, I do not find any reason to interfere with the directions of the Labour Court to reinstate the workman in service. But in view of the fact that, the workman was actually in prison for quite sometime and the management had taken the trouble of ascertaining from the Labour Officer as to what should be done in the case of the workman in the peculiar circumstances of the case, I feel that the award of 60% backwages is too harsh. Accordingly Ext.P3 award is modified

restricting the backwages to 25%. In all other respects the award would stand.

The writ petition is disposed of as above.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com