

Supreme Court of India

The Binny Limited vs Their Workmen on 27 April, 1973

Equivalent citations: AIR 1973 SC 1403, 1973 CriLJ 1119, 1973 (26) FLR 423, 1973 LablC 1119, (1974) 3 SCC 152, 1973 (5) UJ 728 SC

Author: Grover

Bench: A Grover, C Vaidialingam, S Dwivedi

JUDGMENT Grover, J.

1. This is an appeal by special leave from an award made by the Labour Court at Bangalore.
2. The appellant company was substituted as the appellant by an Order made by this Court on February 4, 1970 as it had taken over the business of the Bangalore woollen Cotton and Silk Mills Company Limited (hereinafter referred to as the "management") One a Ramachandran was working in the Roving section in the Carding Department of the Management's Mills. On 11th June 1956 he requested the Mill Manager for grant of leave of absence for 10 days from 12th June 1956 representing that he wanted the leave as he had to go to his native place to settle a land dispute with his brother-in-law. As all leave with wages and casual leave due to him had already been exhausted, the Mill Manager believing his representation, granted him special leave for 8 days without wages or dearness allowance from 12 the June, 1956.

Ramachandran proceeded on leave but he did not go to his village and remained in Bangalore itself. Some members of the Bangalore Silk Mills employees Association, which was not in any way connected with the Management or the respondent union, had decided to go on hunger strike to get certain grievances redressed, with which the management had no concern. Ramachandran was not even an ordinary member of that Association, but he joined three members thereof and started a hunger strike in front of the Secretariat. News of the Hunger suite appeared in a newspaper the "deccan Herald" in its issue dated 13th June 1956. The management having learnt of Ramachandran having joined the hunger strike and finding that he had obtained special leave of absence under a false pretext, wrote to him on 15th June, 1956, informing him that the leave which had been granted to him was being cancelled. He was directed to return to duty at once and not later than 16th June. That letter was duly received by him on 15th June. Ramachandran however, continued his hunger strike until 20th June and did not join duty. On the 21st June 1956 he entered the factory Hospital, Bangalore as a patient for being treated for fasting. On 28th June, 1956 he came to the Management's Mills.

3. The decision taken by the Management was that Ramachandran had left the service, terminating his contract under Standing Order 8(ii) of the Standing Orders applicable to the establishment, by absenting himself without leave for 8 consecutive working days. An enquiry was also held on July 2, 1966 in the matter. On a dispute being raised by the workmen on behalf of Ramachandran, the Government of Mysore by an Order dated 23rd July, 1964 referred the following points of dispute for adjudication to the labour Court :-

Are the management of Bangalore Woollen Cotton & Silk Mills Company Limited, Bangalore, justified in terminating the services of Shri A. Ramachandran, Roving Section Token No. 39, of the

Carding Department? If not, is he entitled to reinstatement with benefits of back wages and continuity of service or to any other relief ?

4. The labour Court made its Award on 26th March, 1968 in which it held inter alia (i) there was no merit in the contention of the Union that Standing Order 8(ii) was not in operation on the 2nd July, 1956, (ii) the management had no right or power to revoke the leave already granted to Ramachandran; (iii) that Ramachandran did not go to his village and had obtained leave on a false pretext. The management was justified in not accepting his explanation regarding his absence;

(iv) the plea of the Union that Management had acted malafide with the object of victimisation or had indulged in unfair labour practice was not established.

5. The Labour Court ultimately directed reinstatement of Ramachandran and in view of the fact that he had obtained leave on a false pretext, the Labour Court awarded a consolidated sum of Rs. 5,000/- as back wages and other amenities.

6. It was sought to be contended before us on behalf of the management that the Labour Court erred in holding that management had no right to cancel leave which has been granted to Ramachandran. The provisions of Standing Order 8(ii) were fully applicable since Ramachandran had absented himself for 8 consecutive working days without leave, it should have been held that he had left the company's service without notice, thereby terminating the contract of service. It has further been pointed out that the Labour Court after having found that Ramachandran had obtained leave on a false pretext, fell into a serious error in saying that no question of the Management losing confidence in him arose. It was quite clear that his own admission he had acted in a manner by which the Management could possibly have no confidence in him for the future. His reinstatement as well as the payment of Rs. 500/- as back wages therefore, could not have been ordered according to the well settled law and principles on the point. The last contention seems to be well-founded and we do not consider that reinstatement and payment of Rs. 5000/- as bank wages should have been ordered in the circumstances of the present case. At any rate the appellant has undertaken to pay a sum of Rs. 8,000/- ex-gratia to Ramachandran. This amount shall be paid within two months from the date of announcement of this Order. The Award is hereby set aside and the appeal shall stand disposed of accordingly. There will be no order as to cost.