Kanpur Mazdur Congress vs J.K. Spinning & Weaving Mills Co. Ltd., ... on 16 January, 1953

Equivalent citations: AIR1953ALL495, (1953)IILLJ743ALL, AIR 1953 ALLAHABAD 495

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Bench: V. Bhargava

ORDER

1. This is a Writ application under Article 226 of the Constitution against an order of the Labour Appellate Tribunal dated 19-5-52. The application is a belated one and even on that account we were inclined to dismiss it. We are, however, of the opinion that even on the merits the application has no force.

2. One Lalta Prasad was employed as a weaver in the firm of the opposite party No. 1.

He was paid wages according to the yardage woven by him. To get more wages than the amount of work done by him entitled him to, he used certain fraudulent methods which were detected in September, 1950. The management after making proper enquiries dismissed him.

There was an appeal filed before the Regional Conciliation Board which came to, the conclusion that Lalta Prasad had been guilty of mis conduct and that his previous record had also not been satisfactory. The Regional Conciliation Board was, therefore, of the opinion that he was rightly dismissed. It was against the order of the Regional Conciliation Board a further appeal was filed before the Industrial Court. The learned Judge held that Lalta Pra sad was guilty of misconduct which made him liable to summary dismissal under standing Order 24 (a). After having come to that finding, he added as follows on the question of punishment:

> "On the question of punishment, however, I am of the opinion that dismissal, under the circumstances, was uncalled for. Appellant was warned on 23-6-50, and suspended for one day in January 1949. It was stated at the bar that the appellant has put in about four years' service. Under the circumstances, agreeing with the opinion of the assessor, I modify the award of the Board in this way that Lalta Prasad would be reinstated, but without any pay for the period of his unemployment."

Against the order of the Industrial Tribunal dated 21-4-1951, there was an appeal filed under Section 7, Industrial Disputes Appellate Tribunal Act (Act XLVIII of 1950). Section 7 gives a right of appeal against certain specified orders and also in a case where the appeal involves any substantial question of law. The order passed by the Industrial Court is admittedly not one of the several orders mentioned in Section 7 against which an appeal is specifically provided and the appeal should,

therefore, have involved a substantial question of law before it could be entertained by the Appellate Tribunal.

3. The question raised in this Writ Application is that the case involved no question of law, and at any rate, it did not raise any substantial question of law and the Appellate Tribunal, therefore, had no jurisdiction to entertain the appeal, differ from the conclusion arrived at by the Industrial Court and hold that the order of dismissal should not have been set aside.

4. Before we deal with this argument, we wish to mention that we are not satisfied that an appeal did He to the Industrial Court against the order of the Regional Conciliation Board. The duty of the Regional Conciliation Board, which consisted of "a representative of the workmen, a representative of the management and an officer appointed by the Government, was to bring about a settlement between the workers and the management. As, however, we are dismissing the application on the merits, it is not necessary for us to consider whether the order of the Regional Conciliation Board was or was not final.

5. The point, whether the case involved a substantial question of law was raised before the Tribunal. The Tribunal came to the conclusion that the case did raise a substantial question of law. Learned counsel has urged that by deciding this question wrongly the Tribunal could not give itself, jurisdiction which it did not possess. We are, however, not satisfied that the Tribunal decided the question wrongly. The question of law as formulated by the Tribunal is, whether the Industrial Court was entitled to interfere with the punishment inflicted by the management which was in accordance with the Standing Orders when the charge of misconduct against the employee, as defined in the Standing Orders, was established. This clearly is a question of law. Jurisdiction of the Industrial Court to interfere with the sentence passed by the management, which had been approved of by the Regional Conciliation Board cannot be deemed to be a question of fact. The question is of great importance and we fail to see how it can be argued that it is not a substantial question of law either. The Tribunal has pointed out that there is some difference of opinion on the question between the various benches of the Tribunal and the matter was even referred to a Full Bench. The Tribunal, after considering the various decisions, deduced there from that the court should not substitute its judgment for the judgment of the management where the misconduct has been proved and the order is in accordance with the Standing Orders, unless the management is guilty of victimisation of the workman or has passed an order which, on the face of it, is unduly harsh. They quoted with approval an observation made in a decision by a bench of the Tribunal wherein it had said: ".....here again the Tribunal should not substitute its own judgment (for the judgment?) of the Management unless it is apparent that the requirements of discipline and good conduct would not be prejudiced if a lesser punishment was awarded."

The Tribunal then proceeded to say that the Industrial Court had not kept these various points in mind when interfering with the sentence. The Tribunal had, therefore, reconsidered the matter and, having considered the previous record and the past conduct of Lalta Prasad, it was satisfied that the order of reinstatement was wrong and the order of dismissal should be maintained. Even if the Tribunal was wrong in its conclusion, it cannot be said that it acted beyond its jurisdiction, nor can it be said that the appeal did not lie to it.

6. Learned counsel has laid great stress on a decision of a learned single Judge of the Madras High Court in -- 'M. K. Ranganathan v. The Madras Electric Tramways (1904) Ltd.', AIR 1952 Mad 659 (A). The learned Judge in that case has held that the principles enunciated above, which should guide the Industrial Tribunal and the Appellate Tribunal in interfering with the punishment inflected by the management, were taken into consideration both by the Industrial Court as well as the Tribunal, but they differed as to the conclusion on a question of fact, viz., whether applying those principles the order of dismissal passed against the workmen should or should not be maintained. It is not for us to say how far the learned Judge's view was right. The case before us is entirely different. Here, the Tribunal was satisfied that the Industrial Court had not kept in view the various principles which should guide its decision whether the sentence passed by the management should or should not be interfered with.

7. We are satisfied that the case did raise a substantial question of law on the findings arrived at by the Tribunal and there appears to be no reason to interfere.

8. The application is, therefore, dismissed.